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In the Supreme Court of the United States

OCTOBER TERM, 1971.

No. 71-4221

LAKE CARRIERS' ASSOCIATION and
AMERICAN STEAMSHIP COMPANY, *et al.*,
Appellants,

vs.

RALPH A. MacMULLAN,
Individually and as Director,
Michigan Department of Natural Resources, *et al.*,
Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN,
SOUTHERN DIVISION.

JURISDICTIONAL STATEMENT.

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In the Supreme Court of the United States

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LAKE CARRIERS' ASSOCIATION and
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Appellants,

vs.

RALPH A. MacMULLAN,
Individually and as Director,
Michigan Department of Natural Resources, *et al.*,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN,
SOUTHERN DIVISION.

JURISDICTIONAL STATEMENT.

Appellants'* appeal from the final judgment of the specially constituted United States District Court for the Eastern District of Michigan, Southern Division entered on July 12, 1971 dismissing appellants' action for declaratory judgment and injunctive relief. Appellants submit this statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that substantial federal questions are presented.

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* Appellants are:
American Steamship Company, Inc.
Amersand Steamship Corporation
The Reiss Steamship Company
Gartland Steamship Company

(Continued on following page)

OPINION BELOW.

The opinion of the United States District Court for the Eastern District of Michigan, Southern Division is not reported. A copy of the Court's memorandum opinion dismissing the action is attached hereto as Appendix A. A copy of the temporary restraining order issued by the Court on March 16, 1971 is attached hereto as Appendix B. A copy of the Court's order extending the temporary injunction until the hearing of appellants' application for interlocutory injunction is attached as Appendix C. Appellants' motion for injunction pending appeal, denied by the United States District Court for the Eastern District

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(Continued from preceding page)

Great Lakes Steamship Division
Bethlehem Steel Corporation
Cleveland-Cliffs Steamship Co.
Cleveland Tankers, Inc.
Erie Sand Steamship Company
The Hanna Mining Co.
Huron Portland Cement Division
National Gypsum Company
Inland Steel Company
The Interlake Steamship Co.
Division of Pickands Mather & Co.
Kinsman Marine Transit Company
Medusa Portland Cement Company
Columbia Transportation Division
Oglebay Norton Company
Lake Fleet Division
Republic Steel Corporation

Appellees are:

Ralph A. MacMullan, individually and as Director, Michigan Department of Natural Resources
Ralph W. Purdy, individually and as Executive Secretary, Water Resources Commission
Frank J. Kelly, individually and as Attorney General for the State of Michigan
Michigan Department of Natural Resources and The Michigan Water Resources Commission

of Michigan, Southern Division, on September 15, 1971, is attached hereto as Appendix D. Appellants' brief in support of said motion is attached hereto as Appendix E because it establishes why appellants should prevail on appeal.

JURISDICTION.

This action was instituted by appellants on March 16, 1971, pursuant to 28 U.S.C. §§ 1331, 1333, 1337, 2201, 2281 and 2284, to annul, enjoin and set aside the Michigan Watercraft Pollution Control Act of 1970 (Act 167, Public Acts of 1970, State of Michigan; C. L. '48 § 323.331; M.S.A. § 353 (201) *et seq.*). In accordance with 28 U.S.C. §§ 2281 and 2284, a District Court of three judges was duly convened and, after a full evidentiary hearing, oral argument and the submission of briefs, the Court rendered, on July 12, 1971, its memorandum opinion dissolving the temporary restraining order, entered on March 16, 1971, and dismissing the complaint without prejudice to appellants instituting other appropriate judicial proceedings.

The jurisdiction of the United States Supreme Court to review this decision by direct appeal is conferred by 28 U.S.C. § 1253. *Florida Lime and Avocado Growers, Inc., et al. vs. Jacobsen,* 362 U.S. 73 (1960). Notice of appeal was filed in the United States District Court for the Eastern District of Michigan, Southern Division on July 29, 1971, attached hereto as Appendix F.

STATUTES, LAWS AND TREATIES INVOLVED

Michigan Watercraft Pollution Control Act of 1970 (Act 167 of 1970; C.L. '48 § 323.331; M.S.A. § 353 (201) *et seq.*); attached hereto as Appendix G. The Federal Water Pollution Control Act as amended by the Water Quality Improvement Act of 1970, 33 U.S.C. § 1151, et seq.; the Steamboat Inspection Acts of February 28, 1871 and May 27, 1936, 46 U.S.C. § 361, et seq.; the Boundary Waters Treaty of 1909 between the United States and Canada, 36 Stat. 2448, Treaty Series No. 548; and Article 1 § 8, cl. 3; Article 3 § 2, cl. 1; Article 6, cl. 2, Amendment XIV § 1 of the Constitution of the United States.

The Michigan Watercraft Pollution Control Act of 1970 as particularly pertinent here, provides:

> Sec. 1 (g) "Watercraft" means any contrivance used or capable of being used for navigation upon water, whether or not capable of self-propulsion, including foreign and domestic vessels engaged in commerce upon the waters of this state, passenger or other cargo-carrying vessels and privately owned recreational watercraft.
>
> Sec. 3 (1) A person shall not place, throw, deposit, discharge or cause to be discharged into or onto the waters of this state, any litter, sewage, oil or other liquid or solid materials which render the water unsightly, noxious or otherwise unwholesome so as to be detrimental to the public health or welfare or to the enjoyment of the water for recreational purposes.
>
> Sec. 4. (2) A person owning, operating or otherwise concerned in the operation, navigation or management of a watercraft having a marine toilet shall not own, use or permit the use of such toilet on the waters of this state unless the toilet is equipped with 1 of the following pollution control devices:
>
> (a) A holding tank or self-contained marine toilet which will retain all sewage produced on the

watercraft for subsequent disposal at approved dockside or onshore collection and treatment facilities.

(b) An incinerating device which will reduce to ash all sewage produced on the watercraft. The ash shall be disposed of onshore in a manner which will preclude pollution.

Sec. 11. Any person who violates any provision of this act is guilty of a misdemeanor and shall be fined not more than $500.00. To be enforceable, the provision or the rule shall be of such flexibility that a watercraft owner, in carrying out the provision or rule, is able to maintain maritime safety requirements and comply with the federal marine and navigation laws and regulations.

QUESTIONS PRESENTED.

On the pleadings and the evidence, issue was joined in the Trial Court with respect to the following questions:

1. Does the Michigan Watercraft Pollution Control Act of 1970 conflict with the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970, so as to impair Federal superintendence of the field?
2. Did the Congress, in enacting the Water Quality Improvement Act of 1970, express a clear and manifest intent and purpose to occupy the field?
3. Do the vessel inspection laws administered by the United States Coast Guard preclude state prescribed standards with respect to shipboard pollution control devices?
4. Does the Michigan Watercraft Pollution Control Act of 1970 materially affect interstate and foreign commerce in matters where uniformity is neces-

sary and relate to a subject demanding exclusive Federal regulation?

5. Does the Michigan Watercraft Pollution Control Act of 1970 contravene the essential purposes of and work material injury to characteristic features of the maritime law and interfere with its proper harmony and uniformity?

6. Does the Michigan Watercraft Pollution Control Act of 1970 constitute the taking of appellants' property without due process of law in violation of Section 1 of the 14th Amendment to the Constitution of the United States?

7. Does the Michigan Watercraft Pollution Control Act of 1970 deny to appellants the equal protection of the laws in violation of Section 1 of the 14th Amendment to the Constitution of the United States in that such act makes it unlawful for commercial vessels to discharge overboard any sewage, whether treated or not, while at the same time no Michigan law prohibits shore based industry and municipalities from discharging inadequately treated sewage into the waters of the Great Lakes?

8. Does the Michigan Watercraft Pollution Control Act of 1970 violate constitutional requirements of due process and equal protection of the laws in that the act is so vague and ambiguous that it does not specify with sufficient certainty the conduct which it intends to prescribe and punish?

9. Is the State of Michigan required to make application under Section 13(f) of the Water Quality Improvement Act of 1970 to the Secretary of the Interior to determine whether any applicable

water quality standards require a complete prohibition of all overboard discharges of sewage in any of the waters of the State of Michigan before prohibiting such discharges?

The Trial Court dissolved the temporary restraining order and dismissed the complaint without prejudice to appellants instituting other appropriate judicial proceedings. Thus the issues presented to this Court are:

1. Did the Trial Court abuse its discretion in abstaining from deciding the issues raised by the pleadings and the evidence?
2. Did the Trial Court abuse its discretion in failing to permanently enjoin enforcement of the Michigan Watercraft Pollution Control Act of 1970 because said act is constitutionally infirm?
3. Did the Trial Court err in finding that no judiciable controversy exists?
4. Did the Trial Court err in holding that supremacy clause cases are not within the purview of a three judge court when there are also other substantial constitutional issues involved?

STATEMENT OF THE CASE.

Appellants brought this action to determine the constitutional validity of the Michigan Watercraft Pollution Control Act of 1970 as applied to federally licensed vessels engaged in interstate and foreign commerce upon the waters of the Great Lakes. At the outset, appellants wish to make it abundantly clear to the Court that they have not challenged Michigan's law out of any desire to avoid responsibility for preserving the ecology. Such is the duty of every citizen. Rather appellants' interests go beyond

the waters of Michigan and extend to all of the Great Lakes states. Only through uniform standards applicable throughout the entire Great Lakes, including the waters of Canada, can the water quality of the lakes be preserved.

The 19 individual appellants in this case own and/or operate a total of 187 Great Lakes bulk cargo vessels. All of the vessels owned and/or operated by appellants are federally enrolled and licensed for employment in the coasting and foreign trade on the waters of the northern, northeastern and northwestern frontiers, otherwise than by sea, pursuant to the Act of February 27, 1877 (46 U.S.C. § 258). All of appellants' vessels are subject to the provisions and regulations of the federal vessel inspection laws administered by the United States Coast Guard, the same being Title 52 of the Revised Statutes (46 U.S.C. § 361, et seq.).

In all, as of January 1, 1970, there were a total of 442 vessels in excess of 1,000 tons on the Great Lakes. Of this total, 263 were vessels of United States registry, having a combined tonnage of 1,802,776 gross tons, and 179 were vessels of Canadian registry having a combined tonnage of 1,576,165 gross tons.

Appellants are engaged in the business of providing vessel transportation in interstate and foreign commerce, some for their own account and some for the account of others, or both, throughout the entire Great Lakes-St. Lawrence Seaway System, serving in interstate commerce and/or foreign commerce a variety of ports in the states of Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, and New York, and the Provinces of Ontario and Quebec, Canada. The principal trade patterns of the Great Lakes are as shown by the series of flow charts, prepared by the Great Lakes Regional Statistical Office of the Corps of Engineers for the year 1964 (the

last year for which such charts are available) attached as Appendix H.

The flow charts, typical of present day trade patterns, show that for the year 1964, of 62,972,820 short tons of commodities in domestic commerce alone passing down Lake Huron, 43,888,559 short tons moved beyond Michigan and into Lake Erie. Of 36,373,213 short tons of commodities passing down Lake Michigan in domestic commerce, 30,954,329 short tons moved beyond Michigan and were discharged in Illinois and Indiana. The flow charts further show that if car ferry, cement, sand and gravel tonnages are included in addition to the basic bulk commodities such as iron ore, coal, grain, stone and petroleum, the total commerce of the lakes, in 1964, was 210,830,576 short tons, of which only 47,000,277 short tons were received in and 24,219,669 short tons were shipped from the lower peninsula of Michigan. Thus, by far, the vast majority of Great Lakes commerce, i.e., more than 67%, or a total of 139,610,630 short tons out of a total commerce of 210,830,576 short tons, does not utilize or touch Michigan ports.

Great Lakes vessels have the capability of operating within the Great Lakes system as far east as Anacostia Island. Depending upon their trades, some vessels, while traversing Michigan waters, never touch at Michigan ports. Other vessels, while trading into Michigan ports part of the time, may at other times engage in different trades such as between Toledo, Ohio and Buffalo, New York or Chicago, Illinois and Oak Creek, Wisconsin, where they not only do not touch at Michigan ports, but they do not even traverse Michigan waters.

Crew size ranges from thirty to thirty-five men per vessel. Each man generates approximately 125 gallons of liquid wastes per day. This includes wash water, drainage

from normal showers and vehicle water to handle sanitary facilities. Act 167 of the Public Acts of Michigan, 1970, provides that a vessel having a marine toilet may not use, or permit the use of, such toilet on the waters of the State unless the toilet is equipped with one of the following pollution control devices:

(a) A holding tank or self-contained marine toilet which will retain all sewage produced on the watercraft for subsequent disposal at approved dockside or onshore collection and treatment facilities.

(b) An incinerating device which will reduce to ash all sewage produced on the watercraft. The ash shall be disposed of onshore in a manner which will preclude pollution.

Act 167 of the Public Acts of Michigan, 1970, also provides that a person shall not discharge into or onto the waters of the State any other liquid or solid materials which render the water unsightly, noxious or otherwise unwholesome so as to be detrimental to the public health and welfare or to the enjoyment of the water for recreational purposes.

Were the vessel owners to install holding tanks, it would be necessary to have pump-out facilities at basically every port on the Great Lakes in order to carry on normal trade. Not only are there no pump-out facilities for commercial vessels in states other than Michigan, there are no such pump-out facilities even in Michigan. Because there are no pump-out facilities in Michigan or elsewhere at the present time, the only alternative for a vessel with holding tanks is to pump those tanks out in the middle of the lake.

No practical incinerating device which will totally dispose of all liquid wastes created aboard a commercial vessel has been developed. Such incinerating devices as do exist are purely in the experimental stage and not yet proven.

With the exception of Escanaba and St. Joseph-Benton Harbor, none of the port cities in Michigan provide secondary treatment of municipal sewage wastes. Many communities, such as Mackinac Island, do not even provide primary treatment. While many such cities ultimately plan to provide secondary treatment, the construction of the necessary treatment facilities is subject to a time-table prescribed by the Michigan Water Resources Commission. Detroit, for example, the largest port in Michigan, will not have full secondary treatment until late 1973 or early 1974, some 2 to 2½ years hence. Thus, were commercial vessels at the present time to install holding tanks and pump into municipal facilities, no better than primary treatment could be achieved. Primary treatment alone, depending upon the detention time designed into the system plant, removes in the neighborhood of 25% to 30% of the biochemical oxygen demand, 50% of the suspended solids and alone has very little effect upon the total coliform count.

Treatment devices suitable for shipboard installation on commercial vessels are available which produce the equivalent of secondary waste treatment. Such facilities are already in use on some 27 Great Lakes vessels. Further, the use of such devices, commonly called "package plants," is prevalent on land for small communities, shopping districts, resort areas and isolated industries.

The Michigan Water Resources Commission readily admits that there is nothing wrong or harmful in a commercial vessel discharging in the open lake an effluent which has received the equivalent of secondary waste treatment. At the same time, the Commission reiterates that it would be unfortunate from the standpoint of pollution control if a commercial vessel were to pump out holding tanks containing raw sewage in waters of the Great Lakes other than Michigan waters, but that it could do so,

because from the standpoint of Michigan itself, jurisdiction ends with Michigan waters.

Engineering-wise, it appears entirely feasible for commercial vessels to provide secondary treatment on board with some retention capacity of treated effluent for areas such as ports where there may be some discharge restrictions, the treated effluent later being discharged in the open lake away from shore.

The Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970, Section 13(b), provides that the Secretary of the Interior, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate federal standards of performance for marine sanitation devices which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters of the United States, from new vessels and existing vessels.

Under date of May 12, 1971, the Environmental Protection Agency published (36 FR 8739) proposed federal standards of performance for marine sanitation devices. (The authority and functions of the Secretary of the Interior under Section 13 were transferred to the administrator of the Environmental Protection Agency by Reorganization Plan No. 3 of 1970). The proposed regulations provide for vessels the equivalent of the secondary treatment standards for municipal waste facilities. Under the proposed regulation, a marine sanitation device which will prevent the discharge of untreated or inadequately treated sewage, is one which will prevent the discharge of an effluent containing visible floating or settleable solids; and from which the effluent, without dilution other than that normally used for flushing purposes, does not contain:

(a) Total coliform bacteria in excess of 240 per 100 ml;

(b) Biochemical Oxygen Demand in excess of 100 mg/1; and

(c) Suspended solids in excess of 150 mg/1.

Thus, the proposed federal regulations, while not finalized, seek to provide for vessels a level of treatment which is the approximate equivalent of the secondary treatment standards imposed by the Environmental Protection Agency and the states on municipal waste treatment facilities.

THE QUESTIONS PRESENTED ARE SUBSTANTIAL.

The questions presented are so substantial as to require plenary consideration.

On or after January 1, 1971 appellants' federally licensed vessels, not being equipped with either holding tanks or incinerating devices, could not enter Michigan waters except in violation of the Michigan Watercraft Pollution Control Act of 1970. Commercial navigation on the Great Lakes being seasonal in nature, however, there was no immediate problem until the 1971 navigation season opened about mid March. At that time appellants sought and obtained a temporary restraining order against enforcement of the Act. The Trial Court has seized upon the fact that the State has not instigated or threatened criminal prosecutions as justification for abstaining from ruling on the issues. This ignores the fact that the only reason the state has not instigated or threatened criminal prosecutions is because, since the opening of Great Lakes navigation this year, it has been enjoined from doing so.

The Trial Court's Memorandum Opinion is patently inconsistent. It holds, on the one hand, that no judiciable

controversy exists, while, on the other hand, it recommends that appellants seek relief in the Michigan courts through Michigan's declaratory judgment procedures. (Michigan Court Rules, CGR 1963, Section 521). If there is no judiciable controversy, appellants are no more entitled to a declaratory judgment in the state courts than they are in the Federal courts. That there is a judiciable controversy, however, is abundantly clear.

The controversy arises over appellants' legal right to enter Michigan waters without holding tanks or incinerating devices. The conflict of interests is real and ripe for determination. The disagreement between appellants and the State of Michigan is not nebulous or contingent, but has taken on a fixed and final shape so that a court can well see what legal issues it is being requested to decide. That a useful purpose will be achieved in deciding those issues cannot be denied.

None of the cases relied upon by the Trial Court supports its conclusions. *Public Service Commission of Utah et al. v. Wycoff Company, Inc.*, 344 U.S. 237 (1952), did not involve the constitutionality of any statute. In *Wilson v. Schnettler*, 365 U.S. 381 (1961), the appellant was attempting to relitigate in a trial de novo in a federal court the very issue that he had already litigated in the state court.

Dombrowski v. Pfister, 380 U.S. 479 (1965), holds abstention to be appropriate pending a possible narrowing construction by the state courts which would avoid unnecessary constitutional adjudication. Here construction of the state statute is not involved. Its mandate is clear on its face. Litigation in the state courts could serve no useful purpose. The issues are real, the questions practical and not academic. A decision will finally settle and determine the controversy, namely, whether or not appellants'

federally licensed vessels can enter Michigan waters without the necessity of installing holding tanks or incinerating devices.

Moreover, there is no question as to whether a regulation promulgated by a state agency was authorized by a state statute. We readily recognize that if there is no warrant in state law for an agency's assumption of authority there is an end to litigation and the constitutional issue does not arise, but that is not this case. The issue here, pure and simple, is whether Michigan has the legal authority to enact a statute requiring federally licensed vessels to install holding tanks or incinerating devices. We think that issue is so important and so significant as to require plenary consideration.*

After a full evidentiary hearing, oral argument and the submission of briefs, we respectfully submit that the Trial Court abused its discretion in not deciding the issues joined on the pleadings and the evidence.

It is further evident that the Trial Court did not properly apply this Court's decision in *Swift & Co. v. Wickham*, 382 U.S. 111 (1965). That decision holds only that 28 U.S.C. § 2281 is not applicable where an action is brought to enjoin the enforcement of a state statute *solely* on supremacy grounds. Here preemption is only one issue. There are other, equally important, substantial issues involving federal questions. If, however, a district court of

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* The public interest in this issue is demonstrated by the fact that in the trial court briefs amicus curiae were filed in support of appellants by Dominion Marine Association, Canada, The American Institute of Merchant Shipping, et al., The Seafarers International Union of North America, Great Lakes District, A.F.L.-C.I.O., the Maritime Trades Department, A.F.L.-C.I.O., the Michigan State A.F.L.-C.I.O. and the Metropolitan District A.F.L.-C.I.O., and in support of appellees by United Automobile, Aerospace and Agricultural Implement Workers of America, U.A.W. and the Michigan United Conservation Clubs.

three judges was not proper, the trial court was nevertheless a duly constituted district court and should have proceeded to decide the issues. In any event, it is doubtful that a state court could decide all of the issues in view of the maritime nature of the case. 28 U.S.C. § 1333 provides that:

> "The district courts shall have original jurisdiction, *exclusive of the courts of the state,* of (1) any civil case of admiralty or maritime jurisdiction * * *." (emphasis supplied).

In *Harrison v. NAACP*, 360 U.S. 167 (1959), it is said that federal courts should not adjudicate the constitutionality of state enactments "fairly open to interpretation" until the state courts have been afforded a reasonable opportunity to pass upon them. By the same token, *United States v. Livingston* (ED SC) 179 F. Supp. 9 (1959), affirmed 364 U.S. 281, states, pages 12, 13:

> "Though never interpreted by a state court, if a state statute is not fairly subject to an interpretation which will avoid or modify the federal constitutional question, it is the duty of a federal court to decide the federal question when presented to it."

No state interpretation of the Michigan Watercraft Pollution Control Act of 1970 will avoid or modify the federal constitutional questions raised in this litigation. Section 4 of the Michigan Watercraft Pollution Control Act of 1970 is not fairly open to interpretation. The section is clear and unambiguous in meaning and under no reasonable construction could the constitutional issues here presented be avoided. Directly in point is *City of Altus, Oklahoma v. Carr* (DC WD Tex.), 255 F. Supp. 828 (1966), affirmed 385 U.S. 35. As in that case, appellants' fear or apprehension of prosecution is realistic and this action to declare the Michigan Watercraft Pollution Control Act of

1970 violative of the federal Constitution cannot be deemed to be premature. The very presence of the statute itself and the possibility of its enforcement brings the present case well within the purpose of 28 U.S.C. § 2201. As was said in *Commonwealth of Pennsylvania v. State of West Virginia*, 262 U.S. 553 (1923) page 593:

> "One does not have to await the consummation of threatened injury to obtain preventive relief. If the injury is certainly impending that is enough."

On the authority of *Harman v. Forssenius*, 380 U.S. 528 (1965), *Hostetter v. Idlewild Bon Voyage Liquor Corp.*, 377 U.S. 324 (1964), *City of Altus, Oklahoma v. Carr, supra*, and *United States v. Livingston, supra*, appellants urge that the Trial Court abused its discretion in failing or refusing to decide the substantial and important Federal questions raised in this litigation and that such failure or refusal constitutes reversible error.

That the issues raised in this litigation present substantial Federal questions of extreme public importance admits of no doubt.

The preemption question is not only novel but one of first impression. The Congress, in enacting the Water Quality Improvement Act of 1970, embarked upon a comprehensive Federal scheme of pollution control for vessels. After the required standards are promulgated, new vessels are given two years, and existing vessels five years, in which to comply. The Report of the Committee on Public Works of the United States Senate (Report No. 91-351, 91st Congress, 1st Session), accompanying S. 7, the companion bill of H.R. 4148, which ultimately became the Water Quality Improvement Act of 1970, states at page 11:

> "The Committee intends that this new section will assist in preventing at the earliest possible time permitted by existing and advancing technology, eco-

nomics, and other practical considerations, the discharge into the navigable waters of the United States of raw or inadequately treated sewage from vessels."

Can then the states, in this interim period, adopt legislation which completely frustrates the Federal program and impairs Federal superintendence of the field, or does the principle of *San Diego Unions v. Garman*, 359 U.S. 236 (1959) apply?

Is this one of those rare and exceptional cases where a state regulation in the exercise of the police power places such a heavy burden on interstate and foreign commerce, uncompensated by any compelling advantages to the public health and welfare, that it violates the commerce clause of the United States Constitution within the meaning of *Bibb v. Navajo Freight Lines*, 359 U.S. 520 (1959)? Can the states impose a requirement that Federally licensed vessels install specific pollution control equipment in light of *Napier v. Atlantic Coast Line R. Co.*, 272 U.S. 605 (1926) and *Kelly v. Washington*, 302 U.S. 1 (1937), a question that was not reached in *Huron Cement Co. v. Detroit*, 362 U.S. 440 (1960)?

Does the Michigan Watercraft Pollution Control Act of 1970 destroy the very uniformity in respect of maritime matters which the Constitution was designed to establish, and which this Court has long endeavored to protect in decisions such as *Butler v. Boston & Savannah Steamship Co.*, 130 U.S. 527 (1889), *The Lottawanna*, 21 Wall. (88 U.S.) 558 (1874), *Southern Pacific Co. v. Jensen*, 244 U.S. 205 (1917) and *Knickerbocker Ice Co. v. Stewart*, 253 U.S. 149 (1920)? It is recognized that the requirements of uniform maritime law do not completely usurp the state police power, but no state legislation is valid if it contravenes the essential purposes of, or works material prej-

udice to the characteristic features of the general maritime law, or interferes with the proper harmony and uniformity of that law in its international and interstate relations. Such a limitation at least is essential to the fundamental purposes for which such law was incorporated into our national laws by the Constitution, and appellants contend that the Michigan Act goes way beyond these bounds.

Concerning due process and equal protection of the laws, there are substantial questions raised on the record, including but not limited to, whether the Michigan Act is arbitrary, unreasonable and capricious in that the means selected, i.e. holding tanks or incinerating devices, bear no real and substantial relationship to the objective to be achieved, i.e. the protection of the public health and welfare of the citizens of Michigan; is the Michigan Act reasonably calculated to attain the desired objective when holding tanks or incinerating devices installed in compliance with the Act will become wholly obsolete or otherwise worthless upon the effective date of the Federal standards, and there are no pump out facilities in Michigan or elsewhere suitable for commercial vessels so that the objective of the Michigan Act cannot be accomplished; with respect to those vessels which already have secondary waste treatment systems can Michigan require that they abandon those systems and pump into municipal facilities which provide at best only primary treatment?

Appellants urge that there are substantial federal questions of great public importance above and beyond that of preemption involved in this litigation. There is no way in which the Michigan Watercraft Pollution Control Act of 1970 can be construed so as to avoid those issues. A real controversy exists that is ripe for decision and 28 U.S.C. § 2201 provides an appropriate remedy.

CONCLUSION.

It was the duty of the trial court to decide the issues joined on the pleadings and the evidence. In failing to do so, reversible error was committed and appellants respectfully pray that the Court assume jurisdiction and reverse the decision below.

Respectfully submitted,

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APPENDIX A.

Civil Action No. 36194

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION

LAKE CARRIERS' ASSOCIATION and AMERICAN STEAMSHIP COMPANY, *et al.*,

Plaintiffs,

vs.

RALPH A. MacMULLAN, *et al.*,

Defendants.

MEMORANDUM OPINION.

(Dated July 12, 1971.)

Before EDWARDS, Circuit Judge, and KEITH and PRATT, District Judges.

PRATT, District Judge:

Plaintiffs in this proceeding are the Lake Carriers' Association and 19 of its 21 member companies who own and operate Great Lakes cargo vessels. Defendants are the Attorney General of the State of Michigan, the Michigan Department of Natural Resources and its Director and the Michigan Water Resources Commission and its Executive Secretary.

The complaint seeks a declaratory judgment holding that the Michigan Water Pollution Act of 1970 (Act 167 of Public Acts of 1970) is constitutionally infirm and conflicts with federal legislation, and correspondingly, requests that the State of Michigan be enjoined from enforcing that Act.

A three judge Court was convened pursuant to Section 2284 of Title 28 of the United States Code and a hearing was conducted on April 26 and 27, 1971.

The plaintiffs present five major issues as the basis for relief:

1. That the federal government has pre-empted the field of pollution control in the waters of the Great Lakes and that the Michigan Water Pollution Act conflicts with a federal statute, specifically (Water Pollution Control Act as amended by the Water Quality Improvement Act of 1970, 33 U.S.C. Sec. 1151 et seq.); the said federal statute manifests the intention of the federal government to occupy the field exclusively; and that federal vessel inspection laws, administered by the U. S. Coast Guard, preclude state prescription of shipboard equipment.

2. That the Michigan Water Pollution Act places an undue burden on interstate commerce.

3. That the Michigan Water Pollution Act interferes materially with uniform maritime law.

4. That the Michigan Water Pollution Act denies plaintiffs due process and the equal protection of the laws.

5. That the language and provisions of the Michigan Water Pollution Act are unconstitutionally vague and, thus, unenforceable.

Great Lakes shipping can be characterized as a large, vital and sophisticated industry. It traverses all of the Great Lakes, the connecting waterways and tributaries and touches upon the states of Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania and New York and the Canadian provinces of Ontario and Quebec. The advent of the St. Lawrence Seaway System provides an international flavor to shipping on the Great Lakes.

As an example of the size and scope of the industry, as of January 1, 1970, there were a total of 442 vessels in excess of 1,000 tons on the Great Lakes. Of this total, 263 were vessels of United States Registry, having a combined

tonnage of 1,802,776 gross tons, and 179 were vessels of Canadian Registry having a combined tonnage of 1,576,-165 gross tons. Flow charts indicate that the total commerce of the lakes in 1964 was 210,830,576 short tons with the primary commodities being iron ore, coal, grain, stone, petroleum, cement and sand and gravel. Of this commerce, about one-third (approximately 72 million short tons) utilizes or touches Michigan ports. A resume of trade patterns and courses shows that Great Lakes cargo vessels cross and criss-cross during the shipping season from a great variety of ports within the Great Lakes waterway system, and may enter a particular state's waters frequently without touching at a port in that state. Generally, if recommended navigational courses are followed, the vessels do not, while traversing open waters come within three miles of land except when entering or leaving a port or when in a connecting waterway.

A typical or average Great Lakes cargo vessel would be between 500 and 600 feet in length, have a gross tonnage of 7,500 tons and a carrying capacity of 12,000 gross tons. It is a flat-decked vessel except for the "houses" fore and aft where are located the crew quarters, machinery, supplies, navigational and other equipment necessary to the operation of the vessel. The center length of the vessel is devoted to cargo. Crew sizes range from 30 to 35 men per vessel and it is estimated each man daily generates 125 gallons of liquid waste (including wash and bathing water and sanitary flush water).

Recognizing the need for pollution control devices and systems, a part at least of the Great Lakes shipping industry has taken some steps in the direction of reducing the discharge of pollutants. Approximately 30 ships have installed a macerating-chlorinating system and another 26 (including four Canadian registry vessels) have installed

biogest systems. Other systems are also being tried empirically aboard some vessels, and are of the incinerating or of the "package-treatment plant" type.

It is within the foregoing context that the State of Michigan enacted the Water Pollution Control Act of 1970, and began its implementation by, first, enforcing the requirements relating to pleasure craft and then by approaching the owners and operators of Great Lakes cargo vessels in order to obtain compliance with the provisions of the Act.

The Water Pollution Control Act of 1970 (a copy of which is attached hereto as Appendix A), as particularly pertinent here, provides that:

> Sec. 3. (1) A person shall not place, throw, deposit, discharge or cause to be discharged into or onto the waters of this state, any litter, sewage, oil or other liquid or solid materials which render the water unsightly, noxious or otherwise unwholesome so as to be detrimental to the public health or welfare or to the enjoyment of the water for recreational purposes.

and,

> Sec. 4. (2) A person owning, operating or otherwise concerned in the operation, navigation or management of a watercraft having a marine toilet shall not own, use or permit the use of such toilet on the waters of this state unless the toilet is equipped with 1 of the following pollution control devices:
>
> (a) A holding tank or self-contained marine toilet which will retain all sewage produced on the watercraft for subsequent disposal at approved dockside or onshore collection and treatment facilities.
>
> (b) An incinerating device which will reduce to ash all sewage produced on the watercraft. The ash shall be disposed of onshore in a manner which will preclude pollution.

> Sec. 11. Any person who violates any provision of this act is guilty of a misdemeanor and shall be fined not more than $500.00. To be enforceable, the provision or the rule shall be of such flexibility that a watercraft owner, in carrying out the provision or rule, is able to maintain maritime safety requirements and comply with the federal marine and navigation laws and regulations.

From the above provisions, it appears that the legislature of the State of Michigan sought to draw a distinction between the discharge of "noxious" materials and the discharge of "sewage" (defined in Section 2(d) as ". . . all human body wastes, treated or untreated."), in the latter instance requiring either a holding tank or an incinerating device, whereas in the former the prohibition does not proscribe the discharge of "treated" material.

As a result of the overtures of state officials, with the aim of establishing voluntary compliance within a reasonable time, some ship owners have installed holding tanks to control sewage discharge; for example, Ford Motor Company has installed two 1,000 gallon holding tanks on each of its six vessels at a cost of approximately $20,000.00 per vessel. The Ford vessels' holding tanks are pumped out at the Ford dock when the ships return to their port by the utilization of septic tank pump-out trucks at a cost of between $50.00 and $70.00 per ship.

The latter finding points up a significant feature, that is, that Michigan has, as yet, provided no pump-out facilities at any of its ports, although it is anticipated that arrangements with municipal authorities or others (including dock owners and ship owners or operators with their own docks) will establish a network of such facilities.

Against this background is superimposed the entry of the federal government by virtue of the Water Quality Improvement Act of 1970, *supra*, which has as one of its

major purposes pollution control of navigable waters, including the Great Lakes system.

In paraphrase, the federal Act provides that as soon as possible after April 3, 1970, the Secretary of Interior shall promulgate federal standards of performance for marine sanitation devices which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters of the United States. (Section 1163 ~~(b)~~ (1).) The Act also provides that initial standards and regulations shall become effective for new vessels two years after promulgation and for existing vessels five years after promulgation. (Section 1163 (c) (1).) Subsection (f) of Section 1163 prohibits any state from enforcing any statute or regulation with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the section after the effective date of the initial standards and regulations promulgated under the section. A state may, however, apply to the Secretary for a regulation prohibiting the discharge of *any* sewage into waters of that state. (Emphasis supplied.)

There is no dispute that the vessels and waters covered by the Federal Act are the same vessels and waters which are the subject matter of this case. The cause of plaintiffs' anxiety and apprehension is not, however, limited to the alleged conflict between the Federal Act and the Michigan Act. For example, pollution control of the waters of the Great Lakes has been a matter of discussion between the governments of the United States and Canada and specific reference has been made to the problem of achieving compatible regulations governing waste disposal by commercial vessels. (Ex. 23, Communique of the Canada/United States Ministerial Meeting on Great Lakes Pollution, June 23, 1970); the Canadian

government has circularized to the shipping industry proposed regulations governing sewage and garbage disposal on the Great Lakes waters within its boundaries (Ex. 22); in early 1968, Federal authorities met with representatives of Lake Michigan states regarding pollution control of that Lake and it was there recognized that sewage disposal directly into Lake Michigan waters was a distinct threat to the quality of the Lake (Ex. 21); a bill has been introduced into the Wisconsin legislature which purports to regulate sewage discharge from commercial vessels into the waters of that state (Exhibit D).

Adding to the uncertainties created by the foregoing is the expressed fear of the plaintiffs that Michigan may, administratively or judicially, interpret its statutes to require that Great Lakes vessels install huge holding tanks of a capacity (40,000 gallons) that would retain for eventual pumping out *all* materials, fluids and substances generated by and on a vessel.

Inherent, then, in this situation, assert the plaintiffs, is the real possibility that each of the governmental units involved, if left to their own devices, would promulgate different, conflicting standards, prohibitively costly and structurally dangerous and, presumably, each statute with a criminal penalty.

But with a recitation of what is, should be coupled a recitation of what is not. In that balance sheet lies the real crux of the issues presented and the role of this Court.

The pollution of our environment has become a major problem of our society. There is hardly an industry, a governmental unit, a citizens' organization—nor even a person—who is not daily confronted with dire warnings regarding the danger confronting our ecology if corrective and reparative steps are not taken immediately.

There are few dissenters and conflicts appear to arise only as to timetables, methods and expense. Investigations, studies, reports, surveys and conferences abound.

Michigan has chosen to promulgate a program, which is original within the Great Lakes region as it respects lakes pollution. No other state, province or national government has, as yet, instituted a Great Lakes pollution control program although certainly each is involved and concerned. The significant factor is, however, that the plaintiffs here request relief on the basis of an *anticipation* that other governmental units will act, presumably in the imminently near future and that such action will in fact conflict with Michigan standards.

Further, although the plaintiffs asserted that the Michigan statute might or could be interpreted to require holding tanks of 40,000 gallon capacity, there is no substantial grounds for that assertion, particularly in view of the stated position of Michigan authorities that the holding tank provision is aimed at the elimination of the practice of discharging *human wastes* into Michigan waters.

Primary in the factual picture and, therefore, paramount in the Court's consideration, is the attitude of Michigan authorities who seek the cooperation of the industry in the implementation of its program and have not instigated, nor does it appear, threatened criminal prosecutions.

It is this consideration that gives us the starting point of our discussion of the issues.

Wilson v. Schnettler, 365 U.S. 381, provides a succinct guideline regarding the role of the federal courts vis a vis state courts, when Justice Whittaker wrote (at page 385):

> There is still another cardinal reason why it was proper for the District Court to dismiss the com-

plaint. We live in the jurisdiction of two sovereignties. Each has its own system of courts to interpret and enforce its laws, although in common territory. These courts could not perform their respective functions without embarrassing conflicts unless rules were adopted to avoid them. Such rules have been adopted. One of them is that an accused "should not be permitted to use the machinery of one sovereignty to obstruct his trial in the courts of the other, unless the necessary operation of such machinery prevents his having a fair trial." *Ponzi v. Fessenden*, 258 U.S. 254, 260. Another is that federal courts should not exercise their discretionary power "to interfere with or embarrass threatened proceedings in state courts save in those exceptional cases which call for the interposition of a court of equity to prevent irreparable injury which is clear and imminent . . . ." *Douglas v. City of Jeannette, supra*, at 163.

A later exposition of the principle is contained in *Dombrowski v. Pfister*, 380 U.S. 479, where it was said (pages 484, 485):

". . . considerations of federalism have tempered the exercise of equitable power, for the Court has recognized that federal interference with a State's good-faith administration of its criminal laws is peculiarly inconsistent with our federal framework. It is generally to be assumed that state courts and prosecutors will observe constitutional limitations as expounded by this Court, and that the mere possibility of erroneous initial application of constitutional standards will usually not amount to the irreparable injury necessary to justify a disruption of orderly state proceedings."

The impact of *Wilson* and *Dombrowski* is a prevading one, particularly, as here, where dealing as we are with a penal statute, prosecution has not been instituted and threatened prosecution does not appear imminent. (See

Doe v. Randall, 314 F. Supp. 32, D. Minnesota, aff'd *Hodgson v. Randall,* 39 L. W. 3505.)

Nor is there any intimation that the "necessary operation" of state court machinery would prevent a fair trial.

On the contrary, there is every reason to believe that the Michigan court system, with its declaratory judgment procedures (Michigan Court Rules, GCR 1963, Section 521) provide full and adequate machinery to insure a fair hearing of plaintiffs' cause. More importantly, there is every reason to believe that the Michigan courts are eminently qualified to apply constitutional standards studiously and assiduously in their determinations regarding the validity of state statutes.

Reviewing the issues framed previously, there appears to this Court to be compelling reasons to abstain from consideration of the matter in its present posture.

With regard to pre-emption, the Supreme Court in *Swift & Co. v. Wickham,* 382 U.S. 111, held that Supremacy Clause cases are not within the purview of a three judge court.

With regard to the other issues, the lack of a justiciable controversy precludes entry of this Court into the matter. No prosecution is pending, nor threatened which would realistically infer that plaintiffs in a trial of a case would be denied the benefits of the Due Process and Equal Protection clauses or that a State court would not consider the other constitutional issues with circumspection and thoroughness in the usual and normal course.

An overview of the factual situation presented by the evidence in this case compels but one conclusion: that the plaintiffs here are seeking an advisory opinion that would have the effect of prohibiting any state action in the field of Great Lakes water pollution until such time as the federal government manifests its intention and takes

control. This the Court declines to do, especially upon reflection of the clear direction given by the Supreme Court in *Public Service Commission of Utah, et al., v. Wycoff Company, Inc.*, 344 U.S. 237, which involved an interestingly similar situation.

Summarizing the case before it, the Supreme Court said (page 245):

> "In the first place, this dispute has not matured to a point where we can see what, if any, concrete controversy will develop. It is much like asking a declaration that the State has no power to enact legislation that may be under consideration but has not yet shaped up into an enactment."

And went on to say (pages 247, 248):

> "Declaratory proceedings in the federal courts against state officials must be decided with regard for the implications of our federal system. State administrative bodies have the initial right to reduce the general policies of state regulatory statutes into concrete orders and the primary right to take evidence and make findings of fact. It is the state courts which have the first and the last word as to the meaning of state statutes and whether a particular order is within the legislative terms of reference so as to make it the action of the State. We have disapproved anticipatory declarations as to state regulatory statutes, even where the case originated in and was entertained by courts of the State affected. *Alabama State Federation of Labor v. McAdory*, 325 U.S. 450. Anticipatory judgment by a federal court to frustrate action by a state agency is even less tolerable to our federalism. Is the declaration contemplated here to be *res judicata*, so that the Commission cannot hear evidence and decide any matter for itself? If so, the federal court has virtually lifted the case out of the State Commission before it could be heard. If not, the federal judgment serves no useful purpose as a final determination of rights.

The procedures of review usually afford ample protection to a carrier whose federal rights are actually invaded, and there are remedies for threatened irreparable injuries. State courts are bound equally with the federal courts by the Federal Constitution and laws. Ultimate recourse may be had to this Court by certiorari if a state court has allegedly denied a federal right.

In this case, as in many actions for declaratory judgment, the realistic position of the parties is reversed. The plaintiff is seeking to establish a defense against a cause of action which the declaratory defendant may assert in the Utah courts. Respondent here has sought to ward off possible action of the petitioners by seeking a declaratory judgment to the effect that he will have a good defense when and if that cause of action is asserted. Where the complaint in an action for declaratory judgment seeks in essence to assert a defense to an impending or threatened state court action, it is the character of the threatened action, and not of the defense, which will determine whether there is federal-question jurisdiction in the District Court. If the cause of action, which the declaratory defendant threatens to assert, does not itself involve a claim under federal law, it is doubtful if a federal court may entertain an action for a declaratory judgment establishing a defense to that claim. This is dubious even though the declaratory complaint sets forth a claim of federal right, if that right is in reality in the nature of a defense to a threatened cause of action. Federal courts will not seize litigations from state courts merely because one, normally a defendant, goes to federal court to begin his federal-law defense before the state court begins the case under state law. *Tennessee v. Union & Planters' Bank,* 152 U.S. 454; *The Fair v. Kohler Die & Specialty Co.,* 228 U.S. 22; *Taylor v. Anderson,* 234 U.S. 74."

For the foregoing reasons, this Court will abstain from further consideration of the matter.

The Court is mindful of the recent action of the Environmental Protection Agency which on May 12, 1971, published a "Notice of Proposed Rule Making." The Notice announces that the Agency proposed to amend 18 CFR Part 640 by the promulgation of marine sanitation standards which would permit the use of described treatment devices. Holding tanks or incinerating devices are not required under the proposed standards. The Notice also provides that interested persons may submit views, comments and recommendations concerning the proposed standard to the Agency within 45 days of publication of the Notice.

Defendants have conceded that pre-emption would take place when the initial standards and regulations become effective. Certainly the current action of the Environmental Protection Agency must be carefully considered by the defendants in the interpretation and enforcement of the Michigan statute. This circumstance serves to emphasize the reluctance and declination of the Court to intrude into a matter which is yet unformed.

The temporary restraining order heretofore entered is dissolved and the complaint dismissed without prejudice to plaintiffs to institute other appropriate judicial proceedings.

GEORGE C. EDWARDS, JR.,
United States Circuit Judge,

DAMON J. KEITH,
United States District Judge,

PHILIP PRATT,
United States District Judge.

Dated: July 12, 1971.

APPENDIX B.

Civil Action No. 36194.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION.

LAKE CARRIERS' ASSOCIATION
and
AMERICAN STEAMSHIP COMPANY, *et al.*,
Plaintiffs,

vs.

RALPH A. MacMULLAN, *et al.*,
Defendants.

TEMPORARY RESTRAINING ORDER.

(Issued March 16, 1971.)

This cause came on to be heard on plaintiffs' verified complaint and the affidavit submitted therewith and all parties being represented by counsel and it appearing to the Court that the defendants are about to commit acts as set forth in plaintiffs' complaint, and will continue to do so unless restrained by order of this Court, and that immediate and irreparable injury, loss or damage will result to plaintiffs unless a temporary restraining order is issued in that plaintiffs are the owners and/or operators of Great Lakes commercial, bulk cargo vessels engaged in interstate and foreign commerce, and as such, are obligated and required to provide transportation service on the Great Lakes, and enforcement of the Michigan Watercraft Pollution Control Act of 1970, the same being Act 167, Public Acts of 1970, State of Michigan, will

prevent plaintiffs from carrying on their business of transportation by imposing fines and penalties for the alleged violation of the aforesaid Act so that plaintiffs cannot operate their vessels, it is

ORDERED, that Ralph A. MacMullan, individually and as Director of the Michigan Department of Natural Resources; Ralph W. Purdy, individually and as Executive Secretary of the Water Resources Commission; and Frank J. Kelly, individually and as Attorney General of the State of Michigan, their agents, servants, employees and attorneys, and all persons in active concert and participation with them, be and they hereby are restrained from in any manner, either directly or indirectly, interfering with the plaintiffs in the operation of their federally licensed vessels through enforcement of the Michigan Watercraft Pollution Control Act of 1970; and it is further

ORDERED, that this order expire within 10 days after entry unless within such time the order for good cause shown is extended; or unless the defendants consent that it may be extended for a longer period; and it is further

ORDERED, that copies of this order and of plaintiffs' complaint and affidavit submitted therewith, together with proper summons issuing by the clerk of this Court, be immediately served by the United States Marshal upon the defendants.

ISSUED AT 5:45 P.M., March 16, 1971.

RALPH M. FREEMAN,
United States District Judge.

APPENDIX C.

Civil Action No. 36194.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN,
SOUTHERN DIVISION.

LAKE CARRIERS' ASSOCIATION
and
AMERICAN STEAMSHIP COMPANY, *et al.*,
Plaintiffs,

vs.

RALPH A. MacMULLEN, *et al.*,
Defendants.

ORDER.

(Filed March 26, 1971.)

It appearing that due to the Court's schedule, the earliest this cause can be heard is April 19, 1971 at 2:00 p.m., and such appearing to be good cause for extending the Temporary Restraining Order entered at 5:45 p.m., March 16, 1971. Now, therefore, it is

ORDERED, that the Temporary Restraining Order, entered at 5:45 p.m., March 16, 1971, is hereby extended until the hearing of plaintiffs' application for interlocutory injunction.

RALPH M. FREEMAN,
United States District Judge.

APPENDIX D.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN,
SOUTHERN DIVISION.

(Title omitted in printing.)

MOTION FOR INJUNCTION PENDING APPEAL.

Plaintiff moves the court for an order continuing the temporary restraining order or temporary injunction pending appeal to the Supreme Court of the United States and until determination thereof and shows the court as follows:

1) On March 16, 1971, plaintiff filed a complaint herein which sought judgment permanently enjoining the State of Michigan from enforcing Act 167, Public Acts of 1970, State of Michigan, which requires that holding tanks or incinerating devices to be installed on plaintiffs' vessels.

2) On March 16, 1971 this court upon the motion of plaintiffs entered a temporary restraining order restraining defendants from directly or indirectly interfering with plaintiffs in the operation of their federally licensed vessels through enforcement of Act 167, Public Acts of 1970, State of Michigan, pending decision on the merits by this court.

3) On July 12, 1971 final judgment, wherein the complaint was dismissed without prejudice, was entered by this court.

4) On July 29, 1971 plaintiffs duly filed in this court a notice to appeal from said final judgment to the Supreme Court of the United States.

5) Plaintiffs' appeal involves difficult questions of constitutional law regarding the application of Act 167,

Public Acts of 1970, State of Michigan, to plaintiffs' vessels, in that said Act, (a) contravenes the essential purposes of and works material injury to characteristic features of the maritime law and interferes with its proper harmony and uniformity, (b) interferes with federal superintendence of a field where uniformity is necessary and relates to a subject demanding exclusive federal regulation, (c) places an undue burden on interstate commerce, (d) denies plaintiffs due process and the equal protection of the laws, (e) conflicts with existing federal statutes, namely, the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970, which manifests the intent of the federal government to occupy the field exclusively, and the vessel inspection laws which preclude state prescription of shipboard equipment, and (f) is so vague in its language and provisions as to be constitutionally unenforceable.

6) Unless, pending plaintiffs' appeal to the Supreme Court of the United States, the temporary restraining order or preliminary injunction heretofore granted is continued in full force and effect, irreparable damage will result to the plaintiffs should Michigan proceed to enforce its Act and said judgment then be reversed on appeal. Unless said temporary restraining order or temporary injunction is continued, plaintiffs will be compelled to expend large sums of money making permanent structural alterations to their vessels pending determination of the constitutional validity of the Michigan Act.

SCOTT H. ELDER,
Attorney for Plaintiffs Appellant.

APPENDIX E.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

(Title omitted in printing.)

BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR INJUNCTION PENDING APPEAL.

Plaintiffs have moved the Court for an order continuing the temporary restraining order or temporary injunction entered on March 16, 1971 pending final determination of their appeal to the United States Supreme Court pursuant to Section 1253 of Title 28 of the United States Code.

It was early held in the famous *Slaughter House Cases,* 10 Wall. 273 (1869), that an appeal from a decree granting, refusing or dissolving an injunction is not suspended in its effect by an appeal, but that the court below has power, if the purposes of justice require it, to order a continuance of the status quo until a decision shall be made by the appellate court or until that court should order to the contrary. In *Hovey v. MacDonald,* 109 U.S. 150, 161 (1883), the power of the District Court to order a stay was again recognized and it was said that this power should always be exercised when an irremedial injury may result from the effect of the decree as rendered. In fact, the Supreme Court reprimanded the District Court for not taking such action which it felt "eminently proper" under the circumstances of the case.

Scripps-Howard Radio, Inc. v. Federal Communications Commission, 316 U.S. 4 (1941), points out that the power of a district court to grant an injunction to maintain

the status quo pending appeal was first codified in the Judiciary Act of 1789, the pertinent section of which is now Section 1651 of Title 28 of the United States Code, section (a) of which provides:

> "The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

Scripps-Howard Radio, Inc. v. Federal Communications Commission, supra, emphasizes that between lower and upper courts a court of review exhausts its power when it lays bare a misconception of law and compels correction, but judicial review becomes an idle ceremony if the situation is irreparably changed before the correction can be made. It has always been held, therefore, said the court, pages 9, 10:

> "* * * that as part of its traditional equipment for the administration of justice, a federal court can stay the enforcement of a judgment pending the outcome of an appeal. * * *".

and, continued the court, quoting *Virginia Ry. Co. v. United States,* 272 U.S. 658, 672-73:

> "The propriety of its issue is dependent upon the circumstances of the particular case."

Thus, while it is generally the rule that when an appeal is perfected the district court loses jurisdiction to take further action in the cause, the power of a district court to grant an injunction after appeal to preserve the status quo is a long established exception. *United States v. El-O-Pathic Pharmacy* (9 CA), 192 F.2d 62, 79 (1951).

In recognition of the exception, subdivision (c) of Rule 62, Federal Rules of Civil Procedure, 28 U.S.C., provides:

(c) *Injunction Pending Appeal.* When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party. If the judgment appealed from is rendered by a district court of three judges specially constituted pursuant to a statute of the United States, no such order shall be made except (1) by such court sitting in open court or (2) by the assent of all the judges evidenced by their signatures to the order."

It is recognized that a stay pending appeal is not a matter of right and that there must be a demonstrable need, based on good and sufficient reasons, for the trial court to maintain the status quo.

In *Magnum Import Co. v. Coty,* 262 U.S. 159 (1923), Chief Justice Taft established guidelines for granting stays which have withstood the years. The initial test is whether the balance of convenience requires a suspension of the decree and a withholding of its mandate. In striking that balance, the courts have usually considered factors such as whether the failure to maintain the status quo will render the appeal moot. *Chicago & N.W. Ry. Co. v. United Transports Union,* (7 CA) 422 F.2d 979 (1970); *Pettway v. American Cast Iron Pipe Company,* (5 CA) 411 F.2d 998 (1969); whether the petitioners are likely to prevail on the merits of their appeal; whether petitioners will suffer irreparable injury unless a stay is granted; whether a stay would substantially harm other parties; and finally, where lies the public interest. *Virginia Petroleum Job Association v. Federal Power Commission,* (DCCA) 259 F.2d 921, 923 (1958); *Belcher v. Birmingham Trust National Bank,* (5 CA) 395 F.2d 685 (1968); *Dewey v. Reynolds*

Metals Company, (WD Mich. SD) 304 F. Supp. 1166 (1969).

Plaintiffs respectfully submit that under the circumstances of this case it would be an abuse of the Court's discretion not to render a stay.

Failure to Grant a Stay Will Render Plaintiffs' Appeal Moot.

The Court, in its memorandum opinion of July 12, 1971, recognizes that the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970, 33 U.S.C. § 1151 et seq., contemplates flow through waste treatment devices and that when the standards, now in the process of promulgation under that Act, become effective, complete federal preemption will take place. If, however, Michigan is permitted to begin immediately to enforce its law, plaintiffs' appeal to the United States Supreme Court will be rendered moot and meaningless because plaintiffs will have to begin to install holding tanks or incinerating devices on their vessels. In turn, any standards promulgated under the Federal Act will be equally meaningless because vessel operators will be compelled to equip their vessels in accordance with Michigan law rather than the Federal Act.

It is true that Michigan has not instigated any criminal prosecutions, but this is only because the temporary restraining order was entered on March 16, 1971 when the Great Lakes shipping season was about to open, as evidenced by the affidavit of Vice Admiral, Paul E. Trimble, U.S.C.G. Ret., President, Lake Carriers' Association, attached to plaintiffs' original complaint. If now the injunction is lifted there is every reason to believe that the state will proceed with criminal prosecutions and that plaintiffs will have to defend numerous prosecutions in the state courts.

Michigan, throughout its testimony in this case, has attempted to create the impression that it wants to cooperate with the vessel owners, but the state's concept of cooperation is the immediate installation of holding tanks or incinerating devices. Michigan insists upon immediate compliance with its act and, should it ultimately be established on appeal that the Michigan act is invalid for any reason, that determination will be of no benefit to plaintiffs because they will have already been forced to adopt a program of installing holding tanks or incinerating devices.

The situation is not unlike that which arose in *Chicago & N.W. Ry. Co. v. United Transportation Union, supra,* involving a crew consist controversy. There the question was whether the procedures of the Railway Labor Act had been exhausted, thereby authorizing the exercising of self-help in the form of a strike. It was held that even though the Norris-LaGuardia Act did not permit an injunction, the district court had power to grant an injunction to preserve the status quo because to permit a strike would moot the appeal. By like token, to now permit the state of Michigan to require that vessel operators proceed to install holding tanks or incinerating devices will moot their appeal.

Plaintiffs Are More Than Likely to Prevail Upon the Merits of Their Appeal.

With all due respect to the Trial Court, plaintiffs are firmly of the belief that substantial error was committed and that they will prevail upon appeal.

The Court, in its memorandum opinion of July 12, 1971, appeared to emphasize that it was the program of Michigan to establish voluntary compliance within a reasonable time frame; that public officials of Michigan had

approached the owners and operators of Great Lakes cargo vessels in order to obtain compliance with the provisions of the act; that because it is the attitude of Michigan authorities to seek the voluntary cooperation of the industry in the implementation of a program and have not instigated or threatened criminal prosecutions, the Court should not intrude into a matter which is yet unformed.

The Court, having erected the foregoing parameters around this case, has brought itself squarely into conflict with *Bush v. Martin* (DC SD Texas), 224 F. Supp. 49 (1964). In that case the constitutionality of a Texas statute apportioning congressional districts among the counties and citizens of the state was in issue. A three judge district court held the statute unconstitutional and enjoined its enforcement. The two salient defenses raised by the state were the same as in this case, namely, that relief could be obtained elsewhere, i.e., the state courts, and the more appealing defense of postponing judicial relief to "let us work this out." Circuit Judge John R. Brown, in a well reasoned but caustic opinion, stated that there is no basis whatsoever in law for staying the hand of equity on the ground that relief can be elsewhere or otherwise obtained. Further, he held that the state officials, defendants in an action challenging the validity of a state statute, are not in a position to advance as a basis for postponing judicial relief the defense of "let us work this out."

Plaintiffs do not contend that the Michigan court system, with its declaratory judgment procedures, is in any way inadequate or unable to insure a fair hearing. They do contend, however, that as a matter of right they are entitled to invoke the jurisdiction of a three judge Federal district court and that the so-called willingness or

overtures of state officials to "let us work this out" in no way defeats federal jurisdiction where the constitutionality of a state statute is involved. Because the Court's decision in this case is squarely in conflict with *Bush v. Martin, supra,* plaintiffs are confident that the Court's decision will be reversed upon appeal. *Bush v. Martin* was affirmed, 376 U.S. 222.

While it is true that the plaintiffs, in a limited sense, as hereinafter appears, could have invoked state jurisdiction under the Michigan court rules, it is also true that this Court has original jurisdiction of all civil actions wherein an injunction is sought which arises under the Constitution, laws or treaties of the United States. 28 U.S.C. §§ 1331, 2201, and 2281. Plaintiffs, as a matter of right, are entitled to invoke that jurisdiction.

Moreover, it is extremely doubtful that plaintiffs could receive full relief in the state courts because of the important issue as to whether or not the Michigan Act contravenes the essential purposes of and works material injury to the characteristic features of the maritime law. Section 1333 of Title 28 of the United States Code provides that:

> "The District Courts shall have original jurisdiction, *exclusive of the courts of the state,* of (1) any civil case of admiralty or maritime jurisdiction. * * *" (Emphasis supplied.)

Thus, it is most doubtful that the state courts would have jurisdiction to determine the question of a conflict with maritime law and it is most probable that on this issue the Trial Court will be reversed.

In yet another vein, it is clear that the Trial Court has misconstrued the Supreme Court's decision in *Swift & Co. v. Wickham,* 382 U.S. 111 (1965). That decision holds that if the immediate controversy is not the unconstitution-

ality of a state law but merely the construction of a state law or the federal law, the three judge requirement does not become operative. In essence, the court held that no suit, resting *solely* on a question of preemption and thus on "supremacy" grounds, falls within the statute. That is not this case. Preemption is only one issue. In addition, there are substantial issues as to the constitutionality of the Michigan act involving maritime law, the interstate commerce clause and the due process and equal protection clauses of the 14th Amendment to the Constitution of the United States.

Even were the Court correct, however, in its interpretation of *Swift & Co. v. Wickham, supra,* then and in that event the Court, although composed of three judges, was a duly constituted district court and had jurisidction to decide the issues from which appeal would lie to the Sixth Circuit Court of Appeals. Plaintiffs are confident that the Supreme Court will conclude that the Trial Court erred in abdicating its responsibility on the basis of *Swift & Co. v. Wickham, supra.*

In all due respect, plaintiffs further believe that the Trial Court committed reversible error in abstaining from deciding the issues of this case. The abstention doctrine originated in Justice Frankfurter's opinion in *Railroad Commission of Texas v. Pullman Company,* 312 U.S. 496 (1941). That case involved the single question as to whether a regulation promulgated by the state Railroad Commission was authorized by the Texas statute. In such an instance, it is perfectly logical to defer interpretation of a state statute to a state court because, if there is no warrant in state law for the commission's assumption of authority, there is an end to litigation and the constitutional issue does not arise. That is not this case. Here the question is whether the state statute itself conflicts

with the Constitution. Thus, there is no issue of state law as such, nor is there a question as to the authority of the Michigan Water Resources Commission.

Moreover, the Trial Court erred in its application of the abstention doctrine because the Supreme Court did not hold in *Railroad Commission of Texas v. Pullman Co., supra,* that the Trial Court could completely abdicate its jurisdiction. Instead, the Supreme Court remanded the cause to the district court with directions to retain the bill pending a determination of proceedings to be brought with reasonable promptness in the state court. We earnestly submit that the Trial Court committed reversible error in abdicating its original jurisdiction and that, even if it was within the court's discretion to apply the abstention doctrine, it had no right, as a matter of law, to dismiss the complaint but should have retained jurisdiction pending proceedings in the state court.

Nor is there any merit to the Trial Court's finding that the lack of a judiciable controversy precludes entry of the Court into the matter. No prosecution of the plaintiffs was pending or threatened because the Court, prior to the opening of the navigation season, had issued an injunction against such prosecution. The state law speaks for itself. It requires that before a commercial vessel enters Michigan waters it install either holding tanks or an incinerating device. Whether or not Michigan prosecutes the plaintiffs, the fact remains that they cannot enter Michigan waters absent such devices except in violation of Michigan law. That is the controversy and the plaintiffs have every right to invoke the jurisdiction of this Court to determine whether or not that statute is valid.

Whether or not a state court would consider the constitutional issues with circumspection and thoroughness is not the issue. Plaintiffs have the utmost confidence in

the Michigan courts. Nevertheless, this is a case arising under the Constitution and laws of the United States within the meaning of 28 U.S.C. § 1333, of which the district courts have original jurisdiction *exclusive of the courts of the states.* This Court cannot refuse to decide a civil case of admiralty or maritime jurisdiction, and plaintiffs having raised the issue of the conflict of the Michigan statute with the uniform maritime law, the Court cannot apply the doctrine of abstention, even were it applied properly, because of the admiralty and maritime features of this case.

For these reasons, plaintiffs believe they will prevail upon the merits on appeal. The constitutional issues raised in the pleadings are ripe for decision and plaintiffs are confident that the Supreme Court, in its wisdom, will not hesitate to rule upon those issues in plaintiffs' favor.

Plaintiffs will Suffer Irreparable Injury Unless a Stay is Granted.

Unless a stay pending appeal is granted in this cause, plaintiffs will suffer irreparable injury because they will be compelled to proceed with the installation of holding tanks of undetermined size for which there are no pump out facilities available in Michigan or elsewhere. This action was not brought in anticipation that other state governmental units will act in the immediate near future and that such action will, in fact, conflict with Michigan standards. The fact remains that no matter what other states do, if the temporary injunction in this case is dissolved, plaintiffs' vessels cannot enter Michigan waters except in violation of law unless they install holding tanks or incinerating devices. Thus, what other state laws may or may not provide is wholly immaterial. Plaintiffs' apprehensions are not anticipatory nor are they based

solely on speculation. Defendants, while purporting, on the one hand, to seek the voluntary cooperation of plaintiffs, assert, on the other hand, that there are no grounds to warrant further delay in enforcement of the state statute.

Unless this Court continues the temporary restraining order originally entered on March 16, 1971, plaintiffs are confronted with tearing out perfectly good waste treatment systems on some 52 vessels which are superior to present day municipal waste treatment systems in Michigan, and installing holding tanks which ultimately must be pumped out in the lake because there are no pump out facilities in Michigan or elsewhere. Thus the vessel operators are completely thwarted in their attempt to comply with the federal program.

Plaintiffs earnestly urge that it is the duty of this Court to maintain the status quo by continuing the temporary restraining order until the constitutional issues involved in this litigation have been decided by the Supreme Court.

The Granting of a Stay Will Not Result in Substantial Harm to Other Parties.

As emphasized in the Court's memorandum opinion of July 12, 1971, a significant feature of this litigation is that Michigan as yet has not provided any pump out facilities at any of its ports. Neither has the Water Resources Commission determined, by rule or regulation, what is an "approved" pump out facility. Consequently, there can be no harm to the other parties involved in this litigation, namely, the defendants, because the installation of holding tanks or incinerating devices would be a completely futile act. Having failed in its administrative duty, the Water Resources Commission cannot now complain that rein-

statement of the restraining order pending appeal will in any way result in harm to it or the citizens of Michigan, which really leads to the more important inquiry as to wherein lies the public interest.

Imposing a Stay Pending Appeal Would Be in the Public Interest.

The public interest in this case transcends that of the citizens of the state of Michigan. The state of Michigan admits that in the absence of pump out facilities the only alternative for a vessel equipped with holding tanks is to pump out in the waters of another state or one of the provinces of Canada. Thus, Michigan's concept of public interest is to refrain from doing anything in the way of providing pump out facilities while at the same time requiring vessel operators to install holding tanks which must be discharged into the waters of other states.

The vessel operators, on the other hand, want to proceed with a program for the treatment of all wastes and are, in effect, working toward broader pollution control. Plaintiffs are well aware of the deep concern of this Court for the public interest, and plaintiffs are equally aware that such concern is not limited merely to the citizens of Michigan but extends to all who are in any way related to the Great Lakes.

One only needs to read the deposition of Ralph Purdy, Executive Secretary of the Water Resources Commission and Deputy Director of the Department of Natural Resources, to know wherein the real public interest lies. Mr. Purdy readily admits there is nothing wrong or harmful in a commercial vessel discharging an effluent in the open lake which has received the equivalent of secondary waste treatment (Purdy Depo., page 38). At the same time he reiterates that it would be unfortunate from the

standpoint of pollution control if a commercial vessel were to pump out holding tanks containing raw sewage in waters of the Great Lakes other than Michigan waters. (Purdy Depo., pages 43-44). Yet this is exactly what commercial vessels will be compelled to do if they must, as a result of the failure of this Court to stay enforcement of the Michigan Act pending appeal, proceed with the installation of holding tanks.

On the Great Lakes the pollution problems are essentially along the shore. When you collect wastes on board a vessel in a holding tank and bring them ashore, it results in further concentration at a given point. This means that, until such time as treatment devices equivalent to secondary treatment are provided on shore, instead of accelerating pollution abatement from vessels, pollution abatement is actually being delayed because wastes are being brought ashore to a point to provide for treatment that does not exist. (Kinney, page 162). The testimony of Purdy shows that such treatment will not exist until 1974 or later (Purdy, page 12). How can such a program be in the public interest?

Plaintiffs believe that the Congress, in enacting the Water Quality Improvement Act of 1970, was as fully cognizant of the public interest in water pollution abatement as was the Michigan Legislature in enacting the Michigan Watercraft Pollution Control Act. The solution of Congress differs from that of the state of Michigan. Certainly, then, it is in the paramount public interest to resolve the legal issues arising out of these conflicting solutions and that can be done only if the status quo is preserved. Overwhelming considerations of the public interest dictate that this Court order a stay pending appeal.

Conclusion.

Plaintiffs assert that there are many compelling reasons why this Court should preserve the status quo by ordering a stay of enforcement of the Michigan Watercraft Pollution Control Act pending appeal. It is apparent that unless such a stay is ordered, the appeal will be rendered moot. Involved are important issues of constitutional law above and beyond the question of federal preemption, the resolution of which will be in the public interest. Unless such a stay is ordered, not only will plaintiffs' appeal be rendered moot, but they will suffer irreparable harm and injury, whereas the ordering of such stay will result in absolutely no harm or detriment to defendants.

Respectfully submitted,

SCOTT H. ELDER,
JOHN ARTHUR HAMILTON,
Attorneys for Plaintiffs,

By SCOTT H. ELDER.

Of counsel:
JOHNSON, BRANAND & JAEGER.

APPENDIX F.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN,
SOUTHERN DIVISION.

(Title omitted in printing.)

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES.

I.

Notice is hereby given that the plaintiffs herein, namely, American Steamship Company, Inc., Amersand Steamship Corporation, The Reiss Steamship Company, Gartland Steamship Company, Great Lakes Steamship Division, Bethlehem Steel Corporation, Cleveland-Cliffs Steamship Co., Cleveland Tankers, Inc., Erie Sand Steamship Company, The Hanna Mining Co., Huron Portland Cement Division, National Gypsum Company, Inland Steel Company, The Interlake Steamship Co., Division of Pickands Mather & Co., Kinsman Marine Transit Company, Medusa Portland Cement Company, Columbia Transportation Division, Oglebay Norton Company, Lake Fleet Division, Republic Steel Corporation, Tomlinson Fleet Corporation, Great Lakes Fleet, United States Steel Corporation, Wilson Marine Transit Company, Division of Litton Systems, Inc., hereby appeal to the Supreme Court of the United States from the final order of the District Court of three judges entered in this action on July 12, 1971 dismissing the complaint and dissolving the temporary restraining order.

This appeal was taken pursuant to 28 USCA Sec. 1253.

II.

The clerk will please prepare a transcript of the record in the cause for transmission to the clerk of the Supreme Court of the United States and include in said transcript the following:

1) The complaint for declaratory judgment and injunctive relief.

2) Act 167, Public Acts of 1970, State of Michigan, attached as Exhibit A to the complaint.

3) The affidavit of Vice Admiral Paul E. Trimble, USCG (retired) attached to the complaint.

4) Motion for temporary restraining order and preliminary injunction.

5) Temporary restraining order.

6) Order extending temporary restraining order.

7) Answer to complaint for declaratory judgment and injunctive relief.

8) Stipulation of facts.

9) Transcript of hearing held April 26 and 27, 1971.

10) Deposition of Ralph W. Purdy with attached exhibits.

11) All other exhibits entered in the cause.

12) The court's memorandum opinion entered July 12, 1971.

III.

The following questions are presented by this appeal:

Is Act 167, Public Acts of 1970, State of Michigan, commonly known as the Michigan Watercraft Pollution Control Act of 1970, constitutionally infirm as applied to plaintiffs' federally licensed vessels in that it:

1) Contravenes the essential purposes of and works material injury to characteristic features of the maritime law and interferes with its proper harmony and uniformity,

2) Interferes with federal superintendence of a field where uniformity is necessary and relates to a subject demanding exclusive federal regulation,

3) Places an undue burden on interstate commerce,

4) Denies plaintiffs due process and the equal protection of the laws.

5) Confiicts with existing federal status, namely, the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970, which manifests the intent of the federal government to occupy the field exclusively, and the vessel inspection laws which precludes state prescription of shipboard equipment.

6) Is so vague in its language and provisions as to be constitutionally unenforceable.

IV.

The federal statutes, treaties and constitutional provisions involved are: "the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970, 33 U.S.C. Sec. 1151, et seq.; the Steamboat Inspection Acts of February 28, 1871 and May 27, 1936, 46 U.S.C. Sec. 361, et seq.; the Boundary Waters Treaty of 1909 between the United States and Canada, 36 Stat. 2448, Treaty Series No. 548; and Article 1 Sec. 8, cl. 3; Article 3 Sec. 2, cl. 1; Article 6, cl. 2; Amendment XIV Sec. 1 of the Constitution of the United States."

SCOTT H. ELDER,
Attorney for Plaintiffs-Appellants.

APPENDIX G.

STATE OF MICHIGAN
ACT 167, PUBLIC ACTS OF 1970.

AN ACT to regulate the disposal of oil and sewage from watercraft; and to prohibit littering of waterways.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "watercraft pollution control act of 1970."

Sec. 2. As used in this act:

(a) "Act means Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12a of the Compiled Laws of 1948.

(b) "Commission" means the water resources commission of the department of natural resources.

(c) "Litter" means all rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris or other foreign substances of every kind and description.

(d) "Sewage" means all human body wastes, treated or untreated.

(e) "Oil" means oil of any kind or in any form, including but not limited to petroleum, fuel oil, sludge and oil refuse.

(f) "Marine toilet" means any toilet on or within a watercraft used to discharge sewage.

(g) "Watercraft" means any contrivance used or capable of being used for navigation upon water, whether or not capable of self-propulsion, including foreign and domestic vessels engaged in commerce upon the waters of this state, passenger or other cargo-carrying vessels and privately owned recreational watercraft.

(h) "Waters of this state" means all of the waterways on which watercraft may be used or operated including,

but not limited to, the Great Lakes and connecting waterways under the jurisdiction of this state.

(i) "Person" means an individual, partnership, firm, corporation, association or other entity.

(j) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

Sec. 3. (1) A person shall not place, throw, deposit, discharge or cause to be discharged into or onto the waters of this state, any litter, sewage, oil or other liquid or solid materials which render the water unsightly, noxious or otherwise unwholesome so as to be detrimental to the public health or welfare or to the enjoyment of the water for recreational purposes.

(2) It is unlawful to discharge, dump, throw or deposit garbage, litter, sewage or oil from a recreational, domestic or foreign watercraft used for pleasure or for the purpose of carrying passengers, cargo or otherwise engaged in commerce on the waters of this state.

Sec. 4. (1) Any pleasure or recreational watercraft operated on the waters of this state which is moored or registered in another state or jurisdiction, if equipped with a pollution control device approved by that jurisdiction, may be approved by the commission to operate on the waters of this state.

(2) A person owning, operating or otherwise concerned in the operation, navigation or management of a watercraft having a marine toilet shall not own, use or permit the use of such toilet on the waters of this state unless the toilet is equipped with 1 of the following pollution control devices:

(a) A holding tank or self-contained marine toilet which will retain all sewage produced on the watercraft for subsequent disposal at approved dockside or onshore collection and treatment facilities.

(b) An incinerating device which will reduce to ash all sewage produced on the watercraft. The ash shall be disposed of onshore in a manner which will preclude pollution.

Sec. 5. All marinas operating on the bottomlands of the Great Lakes under lease from the department of natural resources under Act No. 247 of the Public Acts of 1955, as amended, being sections 322.701 to 322.715 of the Compiled Laws of 1948 and all those operating on the bottomlands of inland lakes and streams under permit from the department of natural resources under Act No. 291 of the Public Acts of 1965, as amended, being sections 281.731 to 281.752 of the Compiled Laws of 1948 if selling marine fuel or otherwise providing a dockside service center shall provide pump-out facilities approved by the department of public health for marine toilet holding tanks on pleasure watercraft. Failure to comply with the provisions of this section by any marine owner or operator is just cause for revoking the permit or prohibiting the issuance of a lease for the use of the state's bottomlands. The owner or operator of a marina shall be given written notice and opportunity of hearing before any action is taken.

Sec. 5a. All marinas owned and/or operated or leased by the Michigan waterways commission shall by July, 1971 provide pump-out facilities approved by the department of public health for marine toilet holding tanks or pleasure and commercial watercraft.

Sec. 5b. Any marina or dock which is equipped to handle watercraft of the size capable of being equipped with a marine toilet, owned, leased or operated by the state, any of its departments or agencies or any local unit of government shall maintain a pumping station for pumping out the holding tank required on watercraft.

Sec. 5c. Any marina or dock that holds 15 watercraft or less is exempt from section 5 of this act.

Sec. 6. An applicant for a boat place registration for a watercraft pursuant to section 1a of Act No. 70 of the Public Acts of 1911, as amended, being section 207.51a of the Compiled Laws of 1948 shall disclose at such time to the commission whether the watercraft has in or on it a marine toilet, and if so, whether the toilet is equipped with a pollution control device as required by this act. The commission may request the secretary of state to provide it with the name of registrant whose registration indicates the absence of such pollution control device on a marine toilet.

Sec. 7. (1) A person owning, operating or otherwise concerned in the operation, navigation or management of a watercraft operating on the waters of this state shall not discharge or permit the discharge of oil or oily wastes from the watercraft into or onto the waters of this state if the oil or oily wastes threaten to pollute or contribute to the pollution of the waters or adjoining shorelines or beaches.

(2) The owner or operator of any watercraft who, whether directly or through any person concerned in the operation, navigation or management of the watercraft, discharges or permits or causes or contributes to the discharge of oil or oily wastes into or onto the waters of this state or adjoining shorelines or beaches shall immediately remove the oil or oily wastes from the waters, shorelines or beaches. If the state removes the oil or oily wastes which were discharged by an owner or operator, the watercraft and the owner or operator are liable to the state for the full amount of the costs reasonably incurred for its removal. The state may bring action against the owner or operator to recover such costs in any court of competent jurisdiction.

Sec. 8. All watercraft moored, operated or located upon the waters of this state are subject to inspection by the commission, any lawfully designated agent or inspector thereof or any peace, conservation or police officer for the purpose of determining if the watercraft is equipped in compliance with the requirements of this act. The commission may inspect marinas and other waterside facilities used by watercraft for launching, docking or mooring purposes to determine if they are equipped with trash receptacles, sewage disposal equipment or both. Commercial docks and wharfs designed for receiving and loading cargo, and/or freight from commercial watercraft must furnish facilities, if determined necessary, as prescribed by the commission, to accommodate discharge of sewage from heads and galleys, and for deposit of litter, garbage, trash, or bilge waters from the watercraft which utilize the docks or wharfs.

Sec. 9. The state fully reserves to itself the exclusive right to establish requirements with reference to the disposal or discharge of sewage, litter and oil from all watercraft. In order to assure statewide uniformity, the regulation by any political subdivision of the state of waste disposal from watercraft is prohibited.

Sec. 10. The commission may promulgate all rules necessary or convenient for the carrying out of duties and powers conferred by this act.

Sec. 11. Any person who violates any provision of this act is guilty of a misdemeanor and shall be fined not more than $500.00. To be enforceable, the provision or the rule shall be of such flexibility that a watercraft owner, in carrying out the provision or rule, is able to maintain maritime safety requirements and comply with the federal marine and navigation laws and regulations.

Sec. 12. This act shall take effect January 1, 1971.

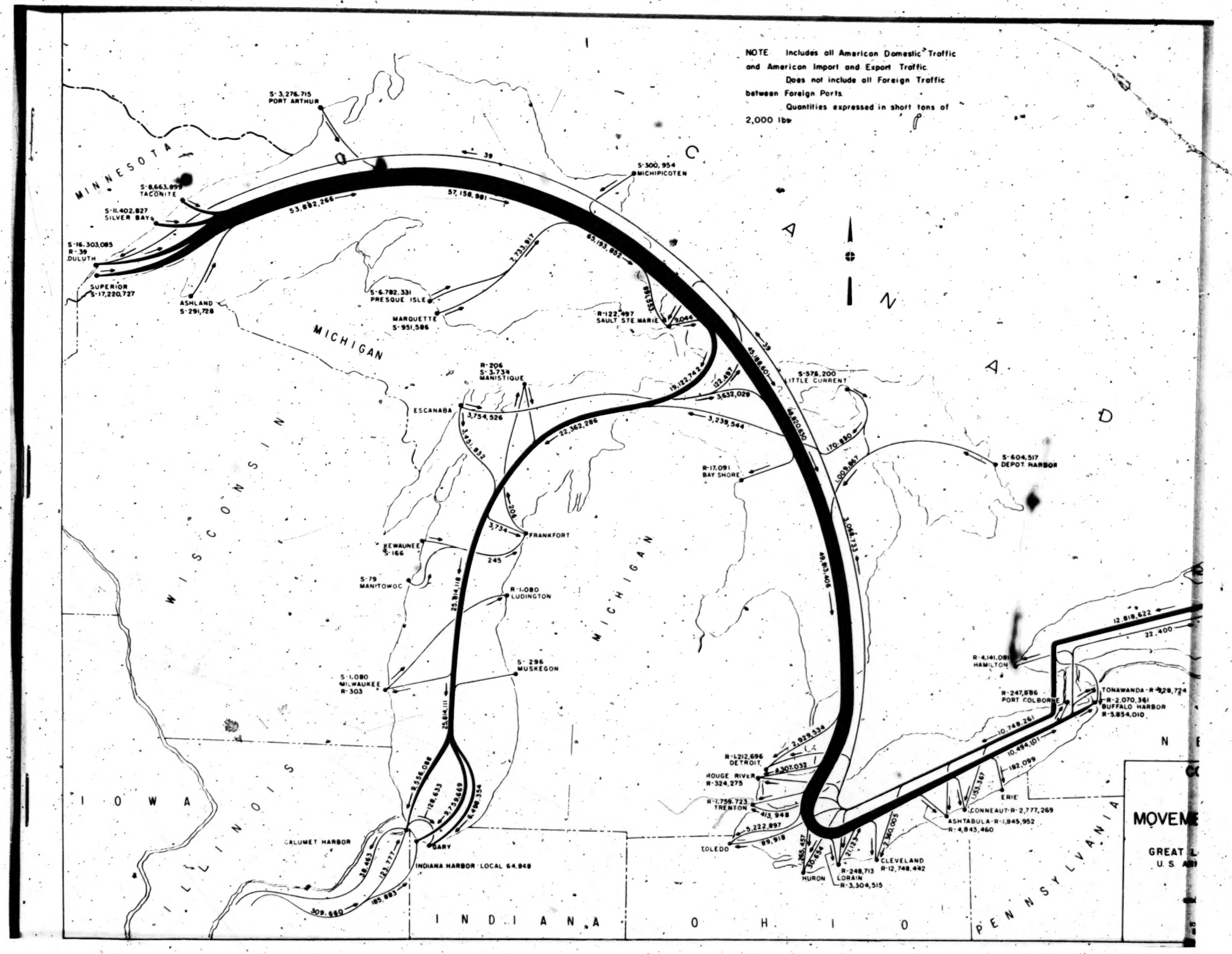
This act is ordered to take immediate effect.

APPENDIX H.

Series of Charts Containing Commercial Statistics for Bulk Movements on the Great Lakes, Prepared by Great Lakes Regional Statistical Office, U. S. Army Engineer, Division, North Central Corps of Engineers.

(Attached.)

NOTE Includes all American Domestic Traffic and American Import and Export Traffic.
Does not include all Foreign Traffic between Foreign Ports.
Quantities expressed in short tons of 2,000 lbs



NOTE Includes all American Domestic Traffic and American Import and Export Traffic.

Does not include all Foreign Traffic between Foreign Ports.

Quantities expressed in short tons of 2,000 lbs.

S-276,715
PORT ARTHUR

39

S-300,954
NICHIPICOTEN

53,882,266

57,158,981

65,193,882

7,733,817

S-6,782,331
PRESQUE ISLE

MARQUETTE
S-951,586

881,553

R-122,497
SAULT STE MARIE

9,044

MICHIGAN

R-206
S-3,734
MANISTIQUE

19,122,742

122,497

3,632,029

45,188,501

39

S-576,200
LITTLE CURRENT

ESCANABA

3,754,526

3,239,544

22,362,286

543,832

48,820,630

170,830

1,009,867

S-604,517
DEPOT HARBOR

R-17,091
BAY SHORE

206

3,734

FRANKFORT

KEWAUNEE
S-166

245

S-79
MANITOWOC

25,814,118

R-1,080
LUDINGTON

48,813,406

3,068,733

MICHIGAN

PICTON

604,330

12,818,622

22,400

12,214,292

22,400

R-4,141,081
HAMILTON

S-1,080
MILWAUKEE
R-303

S-295
MUSKEGON

26,814,111

R-247,686
PORT COLBORNE

TONAWANDA-R-228,724
R-2,070,361
BUFFALO HARBOR
R-5,854,010

10,748,261

10,494,101

182,099

N E W Y O R K

2,929,534

R-1,212,696
DETROIT

4,307,032

ROUGE RIVER
R-324,275

1,153,367

ERIE

R-1,759,723
TRENTON

413,948

CONNEAUT-R-2,777,269

ASHTABULA-R-1,845,952
R-4,843,460

9,556,088

128,633

9,739,869

6,498,354

5,222,897

89,918

2,360,005

1,265,657

30,854

21,123

R-248,713
LORAIN
R-3,304,515

CLEVELAND
R-12,748,442

HURON

TOLEDO

CALUMET HARBOR

38,483

123,777

INDIANA HARBOR-LOCAL 64,868

309,660

185,883

PENNSYLVANIA

I N D I A N A

O H I O

COMMERCIAL STATISTICS

1964 IRON ORE MOVEMENTS ON THE GREAT LAKES

PREPARED BY
GREAT LAKES REGIONAL STATISTICAL OFFICE
U. S. ARMY ENGINEER, DIVISION, NORTH CENTRAL
CORPS OF ENGINEERS

Under the direction of
BRIGADIER GENERAL ROY T DODGE, DIVISION ENGINEER

SCALE OF MILES
50 0 50 100

NOTE Includes all American Domestic Traffic and American Import and Export Traffic.

Does not include all Foreign Traffic between Foreign Ports.

Quantities expressed in short tons of 2,000 lbs.

HARBORS NOT INCLUDED IN G
BAYFIELD HARBORS, WISCONS
BELLE ISLE HARBOR, MICHIG
CATAWBA ISLAND, OHIO
CHARLEVOIX, MICHIGAN
DETROIT HARBOR, WISCONS
GILLS ROCK, WISCONSIN
GRAND PORTAGE HARBOR, MINNES
GREEN BAY HARBOR, WISCONSI
HOUGHTON, MICHIGAN
KELLEYS ISLAND, OHIO
LA POINTE HARBOR, WISCON
LELAND HARBOR, MICH
MARBLEHEAD, OHIO
MIDDLE BASS ISLAND, O
NORTH BASS ISLAND, O
NORTH MANITOU ISLAND, MIC
PORT CLINTON, OHIO
PUT-IN-BAY, OHIO
ROCK HARBOR, MICHI
SANDUSKY HARBOR, OH
ST JAMES(BEAVER ISLAND), MIC
SISKIWIT BAY HARBOR, MIC
SOUTH MANITOU ISLAND, MICH
STURGEON BAY, WISCONS
WASHINGTON HARBOR, MICH

MINNESOTA

R-15,781 TACONITE

SUPERIOR R-95,611 S-92,256

ONTONAGON R-16,181

DOLLAR BAY R-30,068

PRESQUE ISLE

MARQUETTE R-44,369

MICHIGAN

R-221,453 GLADSTONE

R-189,856 WELLS

ESCANABA R-183,284

R-28. MENOMINEE

R-209,438 GREEN BAY

KEWAUNEE

TWO RIVERS R-37,769

MANITOWOC

R-171,179 SHEBOYGAN

PORT WASHINGTON

MILWAUKEE

R-54,852 RACINE

LOCAL & INTRAPORT 447,603

CHICAGO HARBOR

CALUMET HARBOR

GARY—129,412

INDIANA HARBOR—LOCAL-11,666

R-166,363 ST. JOSEPH & BENTON HARBOR

FRANKFORT

LUDINGTON

MUSKEGON

GRAND HAVEN & FERRYSBURG

CHARLEVOIX R-24,865

R-115,502 TRAVERSE CITY

MACKINAW CITY R-24,218

CHEBOYGAN R-19,141

ST. IGNACE

SAULT STE. MARIE R-10,340

SAULT STE. MARIE R-52,078

LIME ISLAND R-103,378

R-2,370 DRUMMOND ISLAND

R-13,469 ALPENA

R-96,518 HARRISVILLE

BANGOR

S-25 BAY CITY

SARNIA PORT HURON

40,918 LOCAL & INTRAPORT DETROIT WINDSOR

S-114,027 ROUGE RIVER

ECORSE

TRENTON S-37,861 R-28,849

TOLEDO LOCAL-1,006

R-21,738 CLEVELAND LOCAL-22,135

R-6,547 PORT STANLEY

ASHTABULA

ERIE R-56,075

R-7,534 OSHAWA

R-35,946 TORONTO

R-2,638 CLARKSON S-3,377

HAMILTON R-39,792

LOCAL & INTRAPORT 31,554

BUFFALO HARBOR S-113,146

IOWA

ILLINOIS

WISCONSIN

INDIANA

OHIO

PENNSYLVANIA

CANADA

NOTE Includes all American Domestic Traffic and American Import and Export Traffic.

Does not include all Foreign Traffic between Foreign Ports.

Quantities expressed in short tons of 2,000 lbs.

HARBORS NOT INCLUDED IN FLOW	RECEIPTS	SHIPMENTS
BAYFIELD HARBORS, WISCONSIN	—	353
BELLE ISLE HARBOR, MICHIGAN	7	—
CATAWBA ISLAND, OHIO	—	1,015
CHARLEVOIX, MICHIGAN	26	331
DETROIT HARBOR, WISCONSIN	1,877	—
GILLS ROCK, WISCONSIN	—	25
GRAND PORTAGE HARBOR, MINNESOTA	—	56
GREEN BAY HARBOR, WISCONSIN	—	4,117
HOUGHTON, MICHIGAN	—	160
KELLEYS ISLAND, OHIO	984	—
LA POINTE HARBOR, WISCONSIN	353	—
LELAND HARBOR, MICHIGAN	—	94
MARBLEHEAD, OHIO	—	4
MIDDLE BASS ISLAND, OHIO	293	—
NORTH BASS ISLAND, OHIO	109	—
NORTH MANITOU ISLAND, MICHIGAN	51	—
PORT CLINTON, OHIO	—	405
PUT-IN-BAY, OHIO	1,131	4
ROCK HARBOR, MICHIGAN	145	—
SANDUSKY HARBOR, OHIO	—	1,089
ST JAMES (BEAVER ISLAND), MICHIGAN	331	26
SISKIWIT BAY HARBOR, MICHIGAN	13	—
SOUTH MANITOU ISLAND, MICHIGAN	33	—
STURGEON BAY, WISCONSIN	2,265	—
WASHINGTON HARBOR, MICHIGAN	51	—
TOTAL	7,679	7,679

COMMERCIAL STATISTICS

1964 PETROLEUM PRODUCTS MOVEMENTS ON THE GREAT LAKES

INCLUDING GASOLINE, FUEL OILS, CRUDE OIL, JET FUELS, KEROSENE, ALIPHATIC NAPHTHA LUBRICATING OILS, AND PETROLEUM PRODUCTS, N.E.C.

PREPARED BY

GREAT LAKES REGIONAL STATISTICAL OFFICE
U.S. ARMY ENGINEER, DIVISION, NORTH CENTRAL
CORPS OF ENGINEERS

Under the direction of
BRIGADIER GENERAL ROY T. DODGE, DIVISION ENGINEER

SCALE OF MILES
10 0 50 100

MICHIGAN
ONTARIO
NEW YORK
INDIANA
OHIO
PENNSYLVANIA
DOLLAR BAY R-30,068
PRESQUE ISLE
MARQUETTE R-44,369
R-10,340 SAULT STE. MARIE
SAULT STE. MARIE R-52,078
LIME ISLAND R-103,378
R-2,370 DRUMMOND ISLAND
R-221,453 GLADSTONE
R-189,856 WELLS
ESCANABA R-183,284
ST. IGNACE 6,219
MACKINAW CITY R-24,218
CHEBOYGAN R-19,141
CHARLEVOIX R-24,865
R-115,502 TRAVERSE CITY
R-13,469 ALPENA
R-96,518 HARRISVILLE
R-28 MENOMINEE
R-209,438 GREEN BAY
FRANKFORT
KEWAUNEE 91,256
TWO RIVERS R-37,769
MANITOWOC
LUDINGTON
R-171,179 SHEBOYGAN
PORT WASHINGTON 57,743
MILWAUKEE
MUSKEGON
GRAND HAVEN & FERRYSBURG
R-54,852 RACINE
R-166,363 ST. JOSEPH & BENTON HARBOR
LOCAL & INTRAPORT 447,603
CHICAGO HARBOR
CALUMET HARBOR
GARY — 129,412
INDIANA HARBOR — LOCAL 11,666
BANGOR
S-25 BAY CITY
SARNIA PORT HURON
40,918 LOCAL & INTRAPORT DETROIT WINDSOR
S-14,027 ROUGE RIVER
ECORSE
TRENTON S-37,861 R-28,849
TOLEDO LOCAL 1,006
R-6,547 PORT STANLEY
R-21,738 CLEVELAND LOCAL 22,135
ASHTABULA
ERIE R-56,075
R-7,534 OSHAWA
R-35,946 TORONTO
R-2,638 CLARKSON S-3,377
HAMILTON R-39,792
LOCAL & INTRAPORT 31,554
BUFFALO HARBOR S-113,146
MASSENA 69,350
OGDENSBURG
R-53,615 SACKETS HARBOR
OSWEGO
127,573
157,641
256
63,575
321,143
183,502
28,681
119,133
63,575
24,122
120,615
67,634
484,232
50,7
73,735
78,752
136,827
770,328
9,353
39,239
43,512
1,505,188
209,466
1,100
28
227
21,348
91,256
873
970
542
37
302
1,805
3,107
80,443
150,686
664,533
254,456
39,801
34,906
1,020
554,106
5,903
418,275
41,048
3,336
33,910
208,865
817,811
2,188,345
45,684
156,590
69,471
94,718
665,495
11,180
41,482
210,741
61,111
61,086
173,279
344,529
5,399
42,876
21,983
14,583
133
6,198
2,247,504
103,734
1,052
8,108
116,512
3
11,679
237,675
9,161
23,167
164,369
151,181
24,119
172,919
820,917
2,211
134,074
237
89,161
479,775
1,550
81,689
71,921
1,044
45,955
325,273
219,445
44,933
173,355
80,622
20,316
26,638
280,615
283,209
2,594
198,545
46,090
13,653
193,864
23,815
95,703
51,108
15,148
287,029

NOTE- Includes all American Domestic Traffic and American Import and Export Traffic

Does not include all Foreign Traffic between Foreign Ports.

Quantities expressed in short tons of 2,000 lbs.

HARBORS NOT INCLUDED IN FLOW	RECEIPTS
DETROIT HARBOR, WISCONSIN	39
GREEN BAY HARBOR, WISCONSIN	—
KELLEYS ISLAND, OHIO	294
MIDDLE BASS ISLAND, OHIO	41
NORTH BASS ISLAND, OHIO	43
PORT CLINTON, OHIO	—
PUT-IN-BAY, OHIO	117
SANDUSKY HARBOR, OHIO	—
STURGEON BAY, WISCONSIN	6
TOTAL	540

R-4,238 PORT ARTHUR
FORT WILLIAM R-97,791
R-60,741 HERON BAY
MICHIPICOTEN R-21,711
R-445,831 TACONITE
SILVER BAY R-252,927
R-1,581,348 DULUTH
SUPERIOR R-1,485,406
WASHBURN I/C R-68,870
ASHLAND R-230,538
HOUGHTON R-6,915
HANCOCK
LAKE LINDEN R-155,760
DOLLAR BAY R-245,980
MARQUETTE R-394,291
MUNISING R-36,319
R-2,294,404 SAULT STE. MARIE
SAULT STE. MARIE R-49,687
R-112,049 LIME ISLAND
R-289,815 DETOUR
R-1,745 MACKINAC HBR.
R-433,026 LITTLE CURRENT
R-5,965 PARRY SOUND
R-10,966 GLADSTONE
R-9,223 MANISTIQUE
R-313,512 ESCANABA
R-12,905 CHEBOYGAN
PETOSKEY R-149,605
ADVANCE R-15,357
BOYNE CITY R-4,490
R-58,893 TRAVERSE CITY
CALCITE R-67,547
R-482,513 BAY SHORE
ALPENA R-112,422
MENOMINEE
MARINETTE R-27,787
R-1,260,885 GREEN BAY
DE PERE R-18,439
KEWAUNEE
R-35,567 TWO RIVERS
R-42,185 MANITOWOC
SHEBOYGAN
PORT WASHINGTON
R-297,876 MILWAUKEE
R-2,448,655 OAK CREEK
RACINE
R-110,277 WAUKEGAN
INTRAPORT 3,788 CHICAGO HARBOR
S-6,601,504 CALUMET HARBOR
INDIANA HARBOR
6,528,646
STURGEON BAY
FRANKFORT
MANISTEE R-83,057
FICER CITY R-135,983
LUDINGTON
MUSKEGON
GRAND HAVEN & FERRYSBURG R-65,475
HOLLAND
SOUTH HAVEN
ST JOSEPH & BENTON HARBOR R-3,335
OWEN SOUND R-15,669
COLLINGWOOD R-4,953
R-5,785 PORT McNICOLL
R-70,935 MIDLAND
R-29,193 BELLEVILLE
R-17,967 TRENTON
PICTON
R-5,954 PORT HOPE
COBOURG
R-34,937 OSHAWA
R-486,923 TORONTO
R-413,475 PORT CREDIT
R-3,049,320 HAMILTON
R-19,746 PORT WELLER
R-211,309 THOROLD
R-6,955 WELLAND
R-214,673 PORT COLBORNE
PORT MAITLAND R-10,311
R-1,950,020 BUFFALO HARBOR
R-13,357 GODERICH
HARBOR BEACH
R-29,597 BANGOR
ESSEXVILLE
R-12,065 ZILWAUKEE
BAY CITY R-7,948
SAGINAW R-54,958
R-102,616 PORT HURON
R-267,673 MARYSVILLE
R-3,568,509 ST CLAIR
MARINE CITY R-3,009
PORT OF SARNIA R-788,810
R-147,468 PORT STANLEY
R-335,626 PORT BURWELL
R-4,726,247 DETROIT
R-5,400,995 ROUGE RIVER
R-37,300 ECORSE
WYANDOTTE R-1,181,802
TRENTON R-743,230
MONROE R-28,522
TOLEDO LOCAL-4,858
SANDUSKY S-255,019
HURON S-2,371
LORAIN S-2,052,085
CLEVELAND S-4,812
FAIRPORT S-1,343,425
ASHTABULA S-3,018,800
CONNEAUT S-382,717
S-83,631 ERIE
R-33,713 ERIEAU
KINGSVILLE R-32,223
PORT OF WINDSOR
4,064,920
4,653,345
5,105,666
7,243,285
4,891,367
299,408
17,000
14,733
9,513
203
279,705
46,609
5,018
536,333
13,333,467
2,249,855
2,145,287
214,687
31,687
58,730
97,059
13,953
6,845
3,067
204,710
108,837
6,169
895,234
886,697
57,698
184,671
720,242
877,355
2,758,298
1,234,966
2,488,022
256,280
38,680
51,004
44,991
508,720
12,277
31,997
205
35,275
12,009
2,007
3,219
6,450
82,217
55,889
65,905
111,607
145,052
330,810
304,661
211,418
117,183
9,181
9,744
1,142,631
18,927
48,495
27,360
1,174,780
9,827
1,099,597
803
6,103,117
3,310,960
4,113
5,569
COMMERCE
MOVEMENT
GREAT LAKE
U.S. ARMY
BRIGADIER

NOTE Includes all American Domestic Traffic and American Import and Export Traffic

Does not include all Foreign Traffic between Foreign Ports.

Quantities expressed in short tons of 2,000 lbs.

HARBORS NOT INCLUDED IN FLOW	RECEIPTS	SHIPMENTS
DETROIT HARBOR, MICHIGAN	39	—
GREEN BAY HARBOR, WISCONSIN	—	21
KELLEYS ISLAND, OHIO	294	—
MIDDLE BASS ISLAND, OHIO	41	—
NORTH BASS ISLAND, OHIO	43	—
PORT CLINTON, OHIO	—	148
PUT-IN-BAY, OHIO	117	—
SANDUSKY HARBOR, OHIO	—	347
STURGEON BAY, WISCONSIN	6	24
TOTAL	540	540

COMMERCIAL STATISTICS
1964 COAL MOVEMENTS ON THE GREAT LAKES
(ANTHRACITE AND BITUMINOUS)

PREPARED BY

GREAT LAKES REGIONAL STATISTICAL OFFICE
U. S ARMY ENGINEER, DIVISION, NORTH CENTRAL
CORPS OF ENGINEERS

Under the direction of
BRIGADIER GENERAL ROY Y. DODGE, DIVISION ENGINEER

SCALE OF MILES

NOTE Includes all American Domestic Traffic and American Import and Export Traffic.

Does not include all Foreign Traffic between Foreign Ports.

Quantities expressed in short tons of 2,000 lbs.

PORT ARTHUR
FORT WILLIAM
6,284
6,901
13,185
1,615,326
MINNESOTA
1,602,141
15,051
784,903
DULUTH
817,238
SUPERIOR
MICHIGAN
15,051
1,615,326
260,331
275,382
17,340
1,873,657
GREEN BAY
325
275,057
35
6,873
FRANKFORT
KEWAUNEE
6,838
17,340
MANITOWOC
5,573
5,573
LUDINGTON
650
5,572
MUSKEGON
MILWAUKEE
8,625
KENOSHA
480
75,032
191,142
17,340
43,052
LOCAL & INTRAPORT
CHICAGO HARBOR
1,260
125,148
49,742
CALUMET HARBOR
MICHIGAN CITY
S-51,002
57,026
172,191
297,339
142,327
199,553
WISCONSIN
ILLINOIS
IOWA
INDIANA
OHIO
CARROLLTON
17,340
71,148
1,946,805
884,839
12,852
1,050
2,400
R-12,852
PORT COLBORNE
BUFFALO HARBOR
R-1,328,696
7,606
R-60,294
DETROIT
R-3,503
1,886,511
2,213,535
7,606
4,103
TOLEDO
S-377,961
HURON
S-12,098
CLEVELAND
R-63,035
PENNSYLVANIA
CANADA
MOVEMEN
GREAT LAK
U S ARMY

NOTE Includes all American Domestic Traffic and American Import and Export Traffic.
Does not include all Foreign Traffic between Foreign Ports.
Quantities expressed in short tons of 2,000 lbs.

T ARTHUR
WILLIAM
6,284
6,901
13,185
1,615,326
15,051
1,615,326
MICHIGAN
15,051
260,331
275,382
17,340
1,875,657
275,057
GREEN BAY
325
35
KEWAUNEE
6,838
MANITOWOC
5,573
6,873
FRANKFORT
17,340
5,573
LUDINGTON
650
5,572
MUSKEGON
MILWAUKEE
8,625
KENOSHA
480
75,032
197,142
17,340
43,052
LOCAL & INTRAPORT
CHICAGO HARBOR
1,260
125,148
CALUMET HARBOR
49,142
MICHIGAN CITY
S-51,002
57,026
142,527
199,553
MICHIGAN
17,340
71,148
CARROLLTON
1,946,805
R-60,294
DETROIT
R-3,503
1,886,511
TOLEDO
S-377,961
HURON
S-12,098
CLEVELAND
R-63,035
4,103
2,213,535
7,606
A
D
A
884,839
884,839
OSWEGO
R-4,140
12,852
1,050
2,400
1,050
2,400
R-12,852
PORT COLBORNE
BUFFALO HARBOR
R-1,328,696
7,606
N E W Y O R K
PENNSYLVANIA
I N D I A N A
O H I O

COMMERCIAL STATISTICS

1964 WHEAT MOVEMENTS ON THE GREAT LAKES

PREPARED BY
GREAT LAKES REGIONAL STATISTICAL OFFICE
U.S. ARMY ENGINEER, DIVISION, NORTH CENTRAL
CORPS OF ENGINEERS

Under the direction of
BRIGADIER GENERAL ROY T DODGE, DIVISION ENGINEER

SCALE OF MILES
100 0 50 100

NOTE: Includes all American Domestic Traffic and American Import and Export Traffic.

Does not include all Foreign Traffic between Foreign Ports.

Quantities expressed in short tons of 2,000 lbs.

HARBORS NOT INCLUDED IN FLOW	RECEIPTS	SHIPMENTS
KELLEYS ISLAND, OHIO	69	—
MARBLEHEAD, OHIO	—	750
MIDDLE BASS ISLAND, OHIO	500	—
NORTH BASS ISLAND, OHIO	250	—
SANDUSKY, OHIO	—	69
TOTAL	819	819

R-2,240 PORT ARTHUR
R-18,920 FORT WILLIAM
R-12,497 HERON BAY
MINNESOTA
949,017
974,677
987,174
928,077
R-542,812 DULUTH
SUPERIOR R-385,265
LAKE LINDEN R-4,500
ASHLAND R-20,940
MICHIGAN
R-601,347 SAULT STE. MARIE
SAULT STE. MARIE R-7,521
S-1,443,162 PORT DOLOMITE
PORT INLAND S-2,682,668
2,193,234
2,002,709
110,279
1,438,845
ST. IGNACE 465
DRUMMOND IS. 1,799,877
3,830,308
5,673,808
585,857
GLADSTONE R-8,435
R-19,171 CHEBOYGAN
488,395
S-7,447,517 CALCITE
STONEPORT R-307,865
3,601,013
BAY SHORE
9,003
4,000
414,692
19,883
ALPENA
17,283
R-5,094 PARRY SOUND
R-171 CHARLEVOIX
BOYNE CITY R-4,259
R-51,256 MENOMINEE
TRAVERSE CITY R-8,224
R-151,805 GREEN BAY
9,880,784
477
PORT GYPSUM S-95,814
181,144
233,442
ALABASTER S-273,572
R-18,334 MANISTEE
R-348,410 MANITOWOC
LUDINGTON R-664,609
SHEBOYGAN R-1,512
WISCONSIN
MICHIGAN
1,682,797
4,782,252
106
R-251,823 BANGOR
ESSEXVILLE — R-629,488
R-45,930 ZILWAUKEE
BAY CITY — R-111,135
R-168,888 CARROLLTON
SAGINAW R-475,533
340,441
125,113
R-131,336 MUSKEGON S-96
S-469 MILWAUKEE R-319,560
GRAND HAVEN & FERRYSBURG R-59,900
HOLLAND R-68,713
R-24,113 PORT OF SARNIA
PORT HURON R-36,867 — MARYSVILLE
R-9,561 — ST CLAIR
R-70,289 — MARINE CITY
R-3,644 — ALGONAC
R-10,853 PORT COLBORNE
106
8,419
R-40,051 TONAWANDA
BUFFALO HARBOR R-2,659,007
DUNKIRK R-2,966
R-172,141 WAUKEGAN
R-16,956 SOUTH HAVEN
ST JOSEPH & BENTON HARBOR R-87,122
LOCAL & INTRAPORT 591,250
CHICAGO HARBOR
1,634,096
93,726
15,009
69,825
DETROIT PORT OF WINDSOR
R-1,847,955 — ROUGE RIVER
R-33,791 — ECORSE
WYANDOTTE R-2,175,394
TRENTON R-9,441
106
2,721,296
R-164,359 ERIE
CONNEAUT R-741,721
ASHTABULA R-788,192
IOWA
ILLINOIS
9,257
CALUMET HARBOR R-2,275,019
GARY — R-2,075,945
BUFFINGTON — R-1,189,635
INDIANA HARBOR R-2,251,594
310,126
634,111
MARBLEHEAD
118,388
FAIRPORT R-1,368,118
CLEVELAND S-160 R-2,069,939
LORAIN R-682,893
INDIANA
OHIO
PENNSYLVANIA
NE
CO
MOVEME
GREAT LA
U.S. ARM

NOTE Includes all American Domestic Traffic and American Import and Export Traffic.

Does not include all Foreign Traffic between Foreign Ports.

Quantities expressed in short tons of 2,000 lbs.

HARBORS NOT INCLUDED IN FLOW	RECEIPTS	SHIPMENTS
KELLEYS ISLAND, OHIO	69	—
MARBLEHEAD, OHIO	—	750
MIDDLE BASS ISLAND, OHIO	500	—
NORTH BASS ISLAND, OHIO	250	—
SANDUSKY, OHIO	—	69
TOTAL	819	819

R-12,497 HERON BAY

949,017

974,677

987,174

LAKE LINDEN R-4,500

R-601,347 SAULT STE. MARIE

SAULT STE. MARIE R-7,521

MICHIGAN

PORT INLAND S-2,682,668

2,183,234

S-1,443,162 PORT DOLOMITE

2,002,709

ST. IGNACE 463

GLADSTONE R-8,435

1,438,545

110,279

42,738

DRUMMOND IS.

1,798,977

5,630,309

5,673,808

389,857

R-19,171 CHEBOYGAN

488,395

S-7,447,517 CALCITE

STONEPORT R-307,865

3,601,013

BAY SHORE

ALPENA

9003

4,000

19,883

17,283

414,692

R-5,094 PARRY SOUND

R-51,256 MENOMINEE

R-171 CHARLEVOIX

BOYNE CITY R-4,259

9,880,798

477

R-151,805 GREEN BAY

TRAVERSE CITY R-8,224

PORT GYPSUM S-95,814

181,144

233,442

R-18,334 MANISTEE

R-348,410 MANITOWOC

ALABASTER S-273,572

LUDINGTON R-664,609

14,782,252

1,682,797

106

SHEBOYGAN R-1,512

R-251,823 BANGOR

ESSEXVILLE — R-629,488

R-45,930 ZILWAUKEE

BAY CITY — R-111,135

R-168,888 CARROLLTON

SAGINAW R-475,533

340,441

R-131,336 MUSKEGON

S-96

S-469 MILWAUKEE R-319,560

R-24,113 PORT OF SARNIA

124,113

PORT HURON

R-36,867 MARYSVILLE

R-9,561 ST. CLAIR

R-70,289 MARINE CITY

R-3,644 ALGONAC

GRAND HAVEN & FERRYSBURG R-59,900

HOLLAND R-68,713

R-10,853 PORT COLBORNE

R-40,051 TONAWANDA

BUFFALO HARBOR R-2,659,007

DUNKIRK R-2,966

106

8,419

1,634,096

93,726

15,009

69,825

R-172,141 WAUKEGAN

R-16,956 SOUTH HAVEN

DETROIT

PORT OF WINDSOR

R-1,847,955 — ROUGE RIVER

R-33,791 — ECORSE

WYANDOTTE R-2,175,394

TRENTON R-9,441

2,721,296

R-164,359 ERIE

CONNEAUT R-741,721

ASHTABULA R-788,192

LOCAL & INTRAPORT 591,250

CHICAGO HARBOR

925

310,126

634,111

FAIRPORT R-1,368,118

CLEVELAND S-160 R-2,069,939

CALUMET HARBOR R-2,275,019

GARY — R-2,075,945

BUFFINGTON — R-1,189,635

INDIANA HARBOR R-2,251,594

MARBLEHEAD

118,388

LORAIN R-682,893

ST JOSEPH & BENTON HARBOR R-87,122

INDIANA

OHIO

PENNSYLVANIA

NEW YORK

CANADA

COMMERCIAL STATISTICS

1964 STONE MOVEMENTS ON THE GREAT LAKES

PREPARED BY

GREAT LAKES REGIONAL STATISTICAL OFFICE

U. S. ARMY ENGINEER, DIVISION, NORTH CENTRAL CORPS OF ENGINEERS

Under the direction of

BRIGADIER GENERAL ROY T. DODGE, DIVISION ENGINEER

SCALE OF MILES

10 0 50 100

NOTE: Includes all American Domestic Traffic and American Import and Export Traffic.

Does not include all Foreign Traffic between Foreign Ports.

Quantities expressed in short tons of 2,000 lbs.

MINNESOTA

DULUTH

SUPERIOR

612,619

472,755

890,374

MICHIGAN

WISCONSIN

ILLINOIS

IOWA

INDIANA

OHIO

PENNSYLVANIA

CANADA

2,137,490

3,027,864

3,024,988

2,876

2,876

COLLINGWOOD

279

FRANKFORT

90

KEWAUNEE

189

MANITOWOC

87

87

57

57

LUDINGTON

29,260

25,369

MUSKEGON

MILWAUKEE

332,970

1,859,149

149,739

170,390

INTRAPORT-107,164

CHICAGO HARBOR

142,568

CALUMET HARBOR

378,179

235,613

85,636

71,484

14,152

13,656

GODERICH

5,925

CARROLLTON

3,037,277

R-29,954

TORONTO

3,382,342

R-302,13

BUFFALO HARBOR

PORT OF WINDSOR

5,022

3,714,430

692,175

TOLEDO

MOVEM

GREAT L

U.S A

NOTE Includes all American Domestic Traffic and American Import and Export Traffic.
Does not include all Foreign Traffic between Foreign Ports.
Quantities expressed in short tons of 2,000 lbs.

CANADA

MICHIGAN

950,374

2,137,490

890,374

3,027,864

2,876

3,024,988

2,876

COLLINGWOOD

R-77,764
CARDINAL

R-61,815
PRESCOTT

3,218,478

R-21,596
KINGSTON

3,356,058

R-29,954
TORONTO

3,382,342

2,688

OSWEGO

3,528

13,838

GODERICH

3,027,277

25,935

CARROLLTON

279

FRANKFORT

90

KEWAUNEE

189

MANITOWOC

87

87

LUDINGTON

57

57

29,260

25,369

MUSKEGON

MILWAUKEE

332,970

1,859,149

INTRAPORT-107,164
CHICAGO HARBOR

149,238

1,708,390

142,548

235,613

71,484

14,152

PORT OF WINDSOR

5,032

692,175

TOLEDO

3,714,430

R-302,134
BUFFALO HARBOR

NEW YORK

INDIANA

OHIO

PENNSYLVANIA

COMMERCIAL STATISTICS

1964 CORN MOVEMENTS ON THE GREAT LAKES

PREPARED BY
GREAT LAKES REGIONAL STATISTICAL OFFICE
U. S. ARMY ENGINEER, DIVISION, NORTH CENTRAL
CORPS OF ENGINEERS

Under the direction of
BRIGADIER GENERAL ROY T. DODGE, DIVISION ENGINEER

SCALE OF MILES
100 0 50 100

NOTE " Includes all American Domestic Traffic and American Import and Export Traffic.
Does not include all Foreign Traffic between Foreign Ports.
Quantities expressed in short tons of 2,000 lbs.

PORT ARTHUR
FORT WILLIAM
13,004
25,233
190,417
225,650
8,442
946,743
MINNESOTA
3,193
586,500
DULUTH
360,243
19,104
22,297
SUPERIOR
1,172,393
831
MICHIGAN
195,149
234,944
59,795
12,715
12,715
97,244
60,646
989,929
WISCONSIN
306
16
FRANKFORT
KEWAUNEE
1,272
14,897
8,891
MANITOWOC
966
8,891
180
LUDINGTON
10,725
25,195
MUSKEGON
MILWAUKEE
197,903
48,629
42,349
3,306
38,834
CHICAGO HARBOR
4,035
CALUMET HARBOR
3,494
814
838
4,849
4,332
IOWA
ILLINOIS
INDIANA
OHIO
PENNSYLVANIA
822,888
63,082
R-2,436
BUFFALO HARBOR
156,999
SARNIA
S-9862
R-19,934
DETROIT
979,887
60,646
NEW
GC
19
MOVEME
GREAT L
U.S. A

NOTE Includes all American Domestic Traffic and American Import and Export Traffic.
Does not include all Foreign Traffic between Foreign Ports.
Quantities expressed in short tons of 2,000 lbs.

C A N A D A

MICHIGAN

MICHIGAN

I N D I A N A

O H I O

P E N N S Y L V A N I A

N E W Y O R K

ARTHUR
WILLIAM
13,004
35,233
190,417
225,650
8,442
946,743
22,297
1,172,393
831
195,149
254,944
59,795
12,715
12,715
977,244
60,646
989,959
306
KEWAUNEE
16
FRANKFORT
7,272
14,897
MANITOWOC
966
8,891
8,891
LUDINGTON
180
10,725
MILWAUKEE
197,903
48,629
25,195
MUSKEGON
42,340
3,506
38,934
CHICAGO HARBOR
4,035
CALUMET HARBOR
3,494
814
838
798,157
63,082
822,888
63,082
OSWEGO
R-24,731
R-2,436
BUFFALO HARBOR
156,999
SARNIA
S-9,862
R-49,934
DETROIT
979,887
60,646

COMMERCIAL STATISTICS

1964 BARLEY AND RYE MOVEMENTS ON THE GREAT LAKES

PREPARED BY
GREAT LAKES REGIONAL STATISTICAL OFFICE
U. S. ARMY ENGINEER, DIVISION, NORTH CENTRAL
CORPS OF ENGINEERS

Under the direction of
BRIGADIER GENERAL ROY T. DODGE, DIVISION ENGINEER

SCALE OF MILES
0 50 100

NOTE Includes all American Domestic Traffic and American Import and Export Traffic

Does not include all Foreign Traffic between Foreign Ports.

Quantities expressed in short tons of 2,000 lbs.

MINNESOTA

129,745

72,649

DULUTH

57,096

SUPERIOR

MICHIGAN

129,745

8,056

137,801

8,056

KEWAUNEE

40

40

FRANKFORT

8,056

4,600

LUDINGTON

12,656

4,782

MUSKEGON

MILWAUKEE

9,382

8,056

INTRAPORT - 2,117
CHICAGO HARBOR

CALUMET HARBOR

2,656

6,581

3,587

20,665

18,007

10,168

137,801

59,846

R-77,955
BUFFALO HARBOR

WISCONSIN

ILLINOIS

IOWA

INDIANA

OHIO

PENNSYLVANIA

MICHIGAN

A

N

C

A

D

N E

CO

MOVEME

GREAT LA
U.S ARM

NOTE Includes all American Domestic Traffic and American Import and Export Traffic

Does not include all Foreign Traffic between Foreign Ports

Quantities expressed in short tons of 2,000 lbs

C A N A D A

MICHIGAN

MICHIGAN

L A K E

S

I N D I A N A

O H I O

P E N N S Y L V A N I A

N E W Y O R K

129,745

128,745

8,056

8,056

137,801

40

40

FRANKFORT

KEWAUNEE

8,056

4,600

LUDINGTON

12,656

4,782

MUSKEGON

MILWAUKEE

9,382

8,056

INTRAPORT - 2,117
CHICAGO HARBOR

2,858

CALUMET HARBOR

6,581

3,567

18,007

10,168

137,801

S-45
PRESCOTT

59,846

OGDENSBURG
R-45

59,846

R-77,955
BUFFALO HARBOR

COMMERCIAL STATISTICS

1964 OATS MOVEMENTS ON THE GREAT LAKES

PREPARED BY

GREAT LAKES REGIONAL STATISTICAL OFFICE
U. S ARMY ENGINEER, DIVISION, NORTH CENTRAL
CORPS OF ENGINEERS

Under the direction of
BRIGADIER GENERAL ROY T DODGE, DIVISION ENGINEER

SCALE OF MILES
50 0 50 100

NOTE Includes all American Domestic Traffic and American Import and Export Traffic.

Does not include all Foreign Traffic between Foreign Ports.

Quantities expressed in short tons of 2,000 lbs.

MINNESOTA

625,508

S-265,682
DULUTH

SUPERIOR
S-359,826

623,308

MICHIGAN

568,392

1,193,900

WISCONSIN

350,332

MICHIGAN

22,182

CARROLLTON

1,218,082

R-407,032
TORONTO

1,216,357

R-66,289
HAMILTON

MILWAUKEE 19,941

548,451

INTRAPORT- 41,485
CHICAGO HARBOR

74,633

273,818

CALUMET HARBOR 71,383

MICHIGAN CITY
S-33,150

S-532,742
TOLEDO

1,688,268

R-59,156
CLEVELAND

42,319

139,853

11,884

210,228

54,213

IOWA

ILLINOIS

INDIANA

OHIO

PENNSYLVANIA

N E

CO

1964 FL
MOVEME

GREAT LA
U. S. ARM

NOTE Includes all American Domestic Traffic and American Import and Export Traffic

Does not include all Foreign Traffic between Foreign Ports.

Quantities expressed in short tons of 2,000 lbs.

625,508

623,508

568,392

1,193,900

1,216,082

1,216,357

1,216,357

1,666,666

MICHIGAN

MILWAUKEE 19,941

348,451

INTRAPORT 41,485
CHICAGO HARBOR

74,833

473,818

CALUMET HARBOR 27,383

43,319

136,883

11,884

MICHIGAN CITY
S-33,150

CARROLLTON 22,182

S-532,742
TOLEDO

R-59,156
CLEVELAND

R-407,022
TORONTO

R-66,289
HAMILTON

INDIANA

OHIO

PENNSYLVANIA

NEW YORK

COMMERCIAL STATISTICS

1964 FLAXSEED AND SOYBEANS MOVEMENTS ON THE GREAT LAKES

PREPARED BY
GREAT LAKES REGIONAL STATISTICAL OFFICE
U. S. ARMY ENGINEER, DIVISION, NORTH CENTRAL
CORPS OF ENGINEERS

Under the direction of
BRIGADIER GENERAL ROY T. DODGE, DIVISION ENGINEER

SCALE OF MILES
50 0 50 100

Overseas Import and Export Traffic

ALL COMMODITIES

Quantities expressed in short tons of 2,000 lbs.

MINNESOTA

WISCONSIN

MICHIGAN

ILLINOIS

INDIANA

OHIO

PENNSYLVANIA

CANADA

2,494,442

45,115

S-1,409,299
R-43,044
DULUTH

SUPERIOR
R-2,071
S-1,085,143

1,913,780

896,725

4,310,202

941,840

1,221,337

881,880

881,886

1,720,722

142,266

4,100

4,432,488

935,840

S-94,423
R-14,765
GREEN BAY

S-615
MANITOWOC
R-74

R-16,347
MUSKEGON
S-27,771

S-359,185
MILWAUKEE
R-109,876

S-49,971
KENOSHA
R-6,593

R-7,645
SOUTH HAVEN
S-152

R-291,954
S-489,462
CHICAGO HARBOR

S-784,119
CALUMET HARBOR
R-395,905

GARY S-1
BUFFINGTON R-38,393
INDIANA HARBOR
R-15,173
S-10,061

S-55,552
BANGOR
R-2,518

S-30,448
CARROLLTON
R-451

BAY CITY R-1,131
S-56,566

S-24,513
PORT HURON
R-2,205

S-96,313
R-211,311
DETROIT

S-146,234
R-204,357 — ROUGE RIVER
ECORSE
R-135,752
S-60,066

R-267
MONROE

S-641,909
TOLEDO
R-109,627

1,609,459

LORAIN
S-5,656

R-231,841
CLEVELAND
S-82,557

ASHTABULA
R-99,770
S-2,858

ERIE
R-19,440
S-8,023

R-25,036
BUFFALO HARBOR
S-60,477

5,381,075

1,985,546

1,940,592

5,520,598

4,676,881

5,421,503

948,148

N E

CO

1964 OV

OF

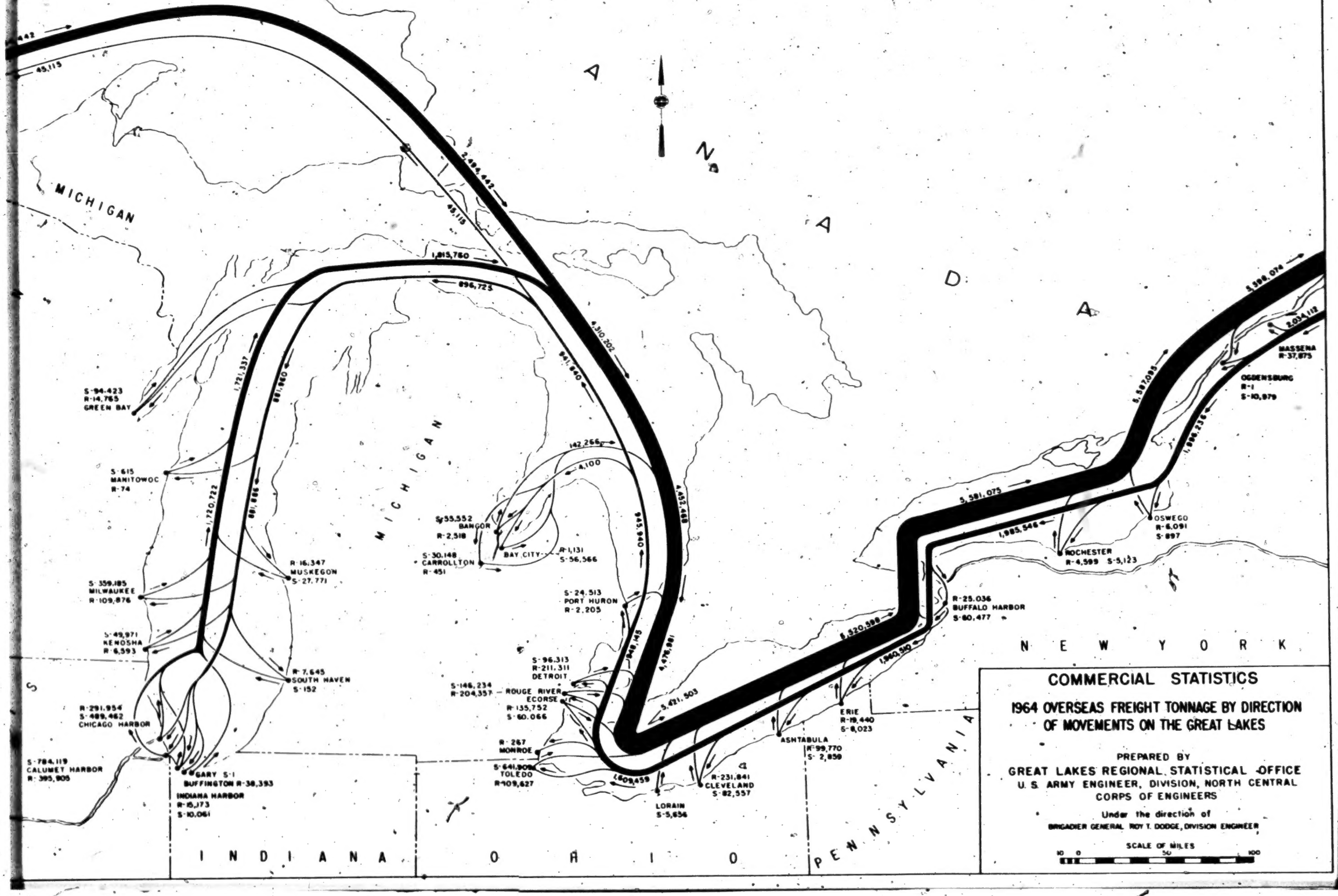
GREAT LA

U.S. AR

Overseas Import and Export Traffic

ALL COMMODITIES

Quantities expressed in short tons of 2,000 lbs.



COMMERCIAL STATISTICS

1964 OVERSEAS FREIGHT TONNAGE BY DIRECTION OF MOVEMENTS ON THE GREAT LAKES

PREPARED BY

GREAT LAKES REGIONAL STATISTICAL OFFICE

U. S. ARMY ENGINEER, DIVISION, NORTH CENTRAL CORPS OF ENGINEERS

Under the direction of

BRIGADIER GENERAL ROY T. DODGE, DIVISION ENGINEER

SCALE OF MILES

50 0 50 100

CANADIAN
IMPORT AND EXPORT TRAFFIC
AT MAJOR PORTS

Quantities expressed in short tons of 2,000 lbs.

5 YEAR COMPARISON OF TRAFFIC	
YEAR	TONS
1960	31,151,621
1961	29,809,479
1962	34,838,702
1963	40,957,982
1965	47,058,464

MINNESOTA
WISCONSIN
MICHIGAN
ILLINOIS
INDIANA
OHIO
PENNSYLVANIA
IOWA
CANADA
LAKE SUPERIOR
LAKE MICHIGAN
LAKE HURON
LAKE ERIE
LAKE ONTARIO
GEORGIAN BAY
NORTH CHANNEL
GREAT LAKES
U.S.

S-3,450,474
R-6,478
PORT ARTHUR
R-137,063
FORT WILLIAM
S-342,290
R-82,660
HERON BAY
S-117,170
MICHIPICOTEN
R-21,711
S-300,954
S-2,335,596
TACONITE
S-681,032
SILVER BAY
R-37,089
S-330,348
DULUTH
SUPERIOR
R-21,883
S-1,838,428
WASHBURN
R-10,160
ASHLAND
R-750
S-160,544
PRESQUE ISLE
S-829,103
R-3,967,154
S-232,287
SAULT STE. MARIE
SAULT STE. MARIE
R-9,145
S-46,199
PORT DOLOMITE
R-4,360
GLADSTONE
ESCANABA
R-1,226
S-171,448
MENOMINEE
R-91,031
S-150
R-41,069
GREEN BAY
MANITOWOC
R-14,931
SHEBOYGAN
R-542
MILWAUKEE
R-284,577
S-217,076
R-2,626
KENOSHA
R-443,803
S-128,104
CHICAGO HARBOR
R-3,190,520
S-1,878,518
CALUMET HARBOR
INDIANA HARBOR
R-2,164,861
S-5,323
GARY
R-21,735--S-7,533
MICHIGAN CITY
R-16,088
TRAVERSE CITY
R-2,573
S-6,400
MANISTEE
LUDINGTON
S-27,415
R-15,055
S-38,536
MUSKEGON
GRAND HAVEN
& FERRYSBURG
S-217,846
HOLLAND
R-14,070
R-1,583
SOUTH HAVEN
R-54,569
S-55,424
BANGOR
R-28,088
S-138,491
CARROLLTON
R-30,754
BAY CITY
SAGINAW
R-108,975
R-1,048,333
S-74,302
PORT OF SARNIA
PORT HURON
R-461 S-374
R-13
MARINE CITY
R-1,208,184
S-360,907
PORT OF WINDSOR
R-1,780,799
S-54,844
DETROIT
R-1,089,982
S-101,502
ROUGE RIVER
ECORSE
R-54,804
S-23,142
WYANDOTTE
R-53,042
S-5,039
TRENTON
R-606,472
R-258,847
S-6,497,208
TOLEDO
PORT CLINTON
R-1,053
SANDUSKY
R-19,877
S-331,995
HURON
R-688,140
S-14,089
LORAIN
R-265,583
S-332,633
MARBLEHEAD
S-39,122
R-191,411
ERIEAU
KINGSVILLE
R-52,425
LEAMINGTON
R-1
CLEVELAND
R-3,961,109
S-128,787
FAIRPORT
R-271,366
S-1,359,625
ASHTABULA
R-2,076,304
S-3,090,460
CONNEAUT-R-1,153,367
S-963,085
R-49,905
S-271,433
ERIE
R-26,993
S-167,111
GODERICH
OWEN SOUND
R-15,669
S-3,840
COLLINGWOOD
R-70,935
MIDLAND
R-3,785
PORT McNICOLL
DRUMMOND ISLAND
S-121,072
S-69,956
KILLARNEY
LITTLE CURRENT
MELDRUM BAY
GORE BAY
S-9,448
BRITT
5,094
PARRY SOUND
DEPOT HARBOR
S-604,719
R-19,907
PORT HOPE
R-5,912
COBOURG
R-6,000
PORT WHITBY
OSHAWA
R-3,324,303-TORONTO S-11
R-619,452-PORT CREDIT
CLARKSON
R-2,838
S-3,377
R-7,539,524
S-17,179
HAMILTON
PORT WELLER R-72,685
R-6,955-WELLAND
THOROLD R-229,385--S-135,810
PORT COLBORNE
R-492,288
S-1287,839
PORT MAITLAND
R-10,311
R-54015
PORT STANLEY
PORT BURWELL
R-360,692
LEWISTON
R-46,127
TONAWANDA
R-72,821
BUFFALO HARBOR
R-2,808,463
S-21,138
R-29,193
BELLEV
TRENTON
R-17,967
R-99,330
49,862
190,499
265,221
5,345,948
9,115,798
10,155,087
288,932
3,084,064
1,132,595
2,528,441
3,877,969
6,310,750
2,698,349
2,526,731
6,170,381
2,492,836
6,154,918
2,018,478
5,838,580
9,832,501
10,935,634
6,738,147
554,333
2,980
4,993
2,875
433,026
10,850
9,512
1,111,309
125,671
14,552,229
7,206,251
1,000
12,741,570
16,100,853
12,035,331
6,291,201
1964 C
GREAT
U.S.

CANADIAN
IMPORT AND EXPORT TRAFFIC
AT MAJOR PORTS

Quantities expressed in short tons of 2,000 lbs.

5 YEAR COMPARISON OF TRAFFIC	
YEAR	TONS
1960	31,151,621
1961	29,809,479
1962	34,838,702
1963	40,957,982
1965	47,058,464

CANADA

MICHIGAN

INDIANA

OHIO

PENNSYLVANIA

NEW YORK

R-82,660 HERON BAY S-117,170

MICHIPICOTEN R-21,711 S-300,954

190,499 265,221 9,115,798 10,155,087 296,932 3,094,044

PRESQUE ISLE S-629,103

R-3,967,184 S-232,287 SAULT STE. MARIE

SAULT STE. MARIE R-8,145

S-46,199 PORT DOLOMITE

DRUMMOND ISLAND S-127,072

LITTLE CURRENT

S-69,856 KILLARNEY

S-9,448 BRITT

MELDRUM BAY

GORE BAY

433,026 170,850 5,094 PARRY SOUND

DEPOT HARBOR S-604,719

R-5,785 PORT McNICOLL

R-70,935 MIDLAND

OWEN SOUND R-15,669 S-3,840

COLLINGWOOD

R-4,360 GLADSTONE

ESCANABA R-1,226 S-171,448

2,528,441 3,877,969 2,698,349 6,310,750 9,838,501

S-574,244 CALCITE

STONE PORT S-171,769

MENOMINEE R-91,031 S-150

R-41,069 GREEN BAY

TRAVERSE CITY R-2,673

2,526,751 6,170,391 10,838,834 4,738,147

S-6,400 MANISTEE

LUDINGTON S-27,415

MANITOWOC R-14,931

SHEBOYGAN R-542

2,482,836 6,154,918

R-26,993 S-157,111 GODERICH

R-54,859 S-55,424 BANGOR

R-28,088 S-138,491 CARROLLTON

R-30,764 BAY CITY

SAGINAW R-108,975

R-15,055 S-38,536 MUSKEGON

MILWAUKEE R-296,577 S-217,076

GRAND HAVEN & FERRYSBURG S-217,846

2,015,478 5,838,390

HOLLAND R-14,070

R-2,625 KENOSHA

R-1,583 SOUTH HAVEN

R-1,048,333 S-74,302 PORT OF SARNIA

PORT HURON R-461 S-374

R-13 MARINE CITY

R-1,208,184 S-360,907 PORT OF WINDSOR

R-1,780,799 S-54,844 DETROIT

R-1,089,982 9-101,502 ROUGE RIVER

ECORSE

WYANDOTTE R-41,082 S-5,039

R-54,804 S-23,142

TRENTON R-604,472

R-443,863 S-128,104 CHICAGO HARBOR

3,190,320 1,878,518 CALUMET HARBOR

MICHIGAN CITY R-16,088

GARY R-21,735--S-7,533

INDIANA HARBOR R-2,164,861 S-5,323

R-258,847 S-6,497,208 TOLEDO

PORT CLINTON R-1,053

MARBLEHEAD S-39,122

SANDUSKY R-19,877 S-331,995

HURON R-488,610 S-14,489

LORAIN R-265,583 S-532,633

CLEVELAND R-3,961,109 S-129,787

FAIRPORT R-271,366 S-1,359,625

ASHTABULA R-2,076,304 S-3,090,480

CONNEAUT-R-1,153,367 S-963,085

R-49,905 S-271,433 ERIE

R-191,411 ERIEAU

KINGSVILLE R-353,325

LEAMINGTON R-1 6,291,201

12,055,331 16,100,655 12,741,570

R-1,208,530 OSHAWA

R-19,907 PORT HOPE

R-9,912 COBOURG

R-6,000 PORT WHITBY

R-3,324,303 -TORONTO S-11

R-619,452 -PORT CREDIT

CLARKSON R-2,638 S-3,377

R-7,539,524 S-17,178 HAMILTON

PORT WELLER R-72,685

R-229,385 S-135,810 THOROLD

R-6,955-WELLAND

PORT COLBORNE R-492,288 S-1,287,839

PORT MAITLAND R-10,311

R-154,015 PORT STANLEY

PORT BURWELL R-360,692

R-6,352 CORNWALL

R-82,767 CARDINAL

R-15-JOHNSTOWN

PRESCOTT R-314,646 S-102,403

R-10,360- BROCKVILLE

R-29,193 BELLEVILLE

TRENTON R-17,967

PICTON S-806,981 R-85,148

KINGSTON R-107,848

12,995,586 12,909,241 4,513,027 84,762

R-13,233 MASSENA

WADDINGTON R-58,455

OGDENSBURG R-116,664 S-110

S-30,240 R-14,794 OSWEGO

14,552,229 7,206,251 38,584 2,451

GREAT SODUS BAY S-1,334,429

41,066 42,066

LEWISTON R-46,127

ROCHESTER R-133,992 S-285,658

TONAWANDA R-72,821

BUFFALO HARBOR R-2,808,463 S-21,136

1,000

COMMERCIAL STATISTICS

1964 CANADIAN FREIGHT TONNAGE BY DIRECTION OF MOVEMENTS ON THE GREAT LAKES

PREPARED BY

GREAT LAKES REGIONAL STATISTICAL OFFICE

U. S. ARMY ENGINEER, DIVISION, NORTH CENTRAL CORPS OF ENGINEERS

Under the direction of

BRIGADIER GENERAL ROY T. DODGE, DIVISION ENGINEER

SCALE OF MILES

10 0 50 100

DOMESTIC TRAFFIC

Quantities expressed in short-tons of 2,000 lbs.

MINNESOTA

S-6,328,303
R-462,383
TACONITE

R-280,553
SILVER BAY
S-10,721,795

S-17,156,639
R-2,362,607
DULUTH

SUPERIOR
S-16,507,052
R-2,171,428

WASHBURN
R-474,470

ASHLAND
R-337,103
S-134,056

ONTONAGON
R-16,181

HOUGHTON
R-7,042
S-503

R-22,216
HANCOCK

R-162,000
TORCH LAKE

DOLLAR BAY
R-276,048

R-151,599
PRESQUE ISLE
S-6,153,228

MARQUETTE
R-438,660
S-951,586

R-36,319
MUNISING
S-702

MICHIGAN

S-735
SAULT STE. MARIE
R-229,434

S-4,894,091
PORT INLAND

S-3,389,672
PORT DOLOMITE

R-215,427
LIME ISLAND

R-289,815
DETOUR

MACKINAC HBR.

ST. IGNACE

R-274,489
GLADSTONE

MANISTIQUE
R-64,598
S-69,158

R-189,856 WELLS

R-200,072
S-241,479

157,878

ESCANABA
R-500,356
S-7,034,910

MACKINAW CITY
R-271,873
S-73,072

R-92,726
CHEBOYGAN

R-150,355
PETOSKEY

S-156,212

S-12,547,081
R-560,960
CALCITE

ADVANCE-R-61,966

STONE PORT
R-307,865

S-4,431,047

BAY SHORE
R-531,320
S-2,041,732

CHARLEVOIX
S-1,154 -- R-25,470

BOYNE CITY
R-8,749

ALPENA
R-143,174

R-216,607
S-63,437
MENOMINEE

MARINETTE
R-82,328

S-111
STURGEON BAY
R-15,949

S-4,424
R-2,336,819
GREEN BAY

R-196,617
TRAVERSE CITY

HARRISVILLE
R-98,518

R-957,906
FRANKFORT
S-465,270

PORT GYPSUM
S-276,958

R-25,159-DE PERE

R-404,724
KEWAUNEE
S-748,769

R-79,786-TWO RIVERS

S-978,204
MANITOWOC
R-1,132,758

S-363,178
R-128,461
MANISTEE

ALABASTER
S-507,014

FILER CITY - R-135,983

LUDINGTON
R-2,652,786
S-1,223,888

R-463,849
SHEBOYGAN

S-27,224
WHITE LAKE

HARBOR BEACH
R-31,687

S-54,921
R-560,920
BANGOR

R-3,061,104
ESSEXVILLE

R-72,299
ZILWAUKEE

R-299,544
CARROLLTON
S-70,899

BAY CITY
R-137,655

SAGINAW
R-708,071

R-733,015
PORT WASHINGTON

S-635,516
MUSKEGON
R-2,616,457

R-4,046,483
S-1,364,245
MILWAUKEE

GRAND HAVEN
& FERRYSBURG
R-432,918
S-571,943

S-127,760
R-653,591
PORT HURON

R-2,448,655-OAK CREEK

R-304,540-MARYSVILLE

R-3,578,070-ST. CLAIR

RACINE
R-15,420

HOLLAND
R-173,051
S-6,417

R-73,298-MARINE CITY

ALGONAC
R-3,644

R-9,410,686
S-19,348
DETROIT

S-1,050
WAUKEGAN
R-469,287

R-71,845
SOUTH HAVEN

S-600,491
R-11,440,352-ROUGE RIVER

R-430,253
S-4,500
ST JOSEPH &
BENTON HARBOR

R-510,654 -- S-66,138 -ECORSE
WYANDOTTE

R-3,365,502 --- S-93,781

CHICAGO HARBOR

R-2,722,685 --- S-37,861 -TRENTON

R-28,522
MONROE

R-9,387,518
CALUMET HARBOR

MICHIGAN CITY — S-84,152

GARY — S-258,045

BUFFINGTON — S-162,432

INDIANA HARBOR
S-864,373

S-26,947,227
R-6,734,637 -- TOLEDO

MARBLEHEAD
R-714,132

SANDUSKY
R-1,051
S-2,414,666

HURON
R-806,701
S-236,280

LORAIN
R-3,987,408
S-1,615,949

CLEVELAND
R-15,497,027
S-235,523

R-1,380,499
FAIRPORT
S-382,126

ASHTABULA
R-5,587,642
S-742,554

CONNEAUT-R-3,518,990
S-297,641

R-614,858
ERIE - S-755,997

DUNKIRK
R-2,966

BUFFALO HARBOR
R-12,857,692
S-983,217

S-72,941
R-268,775
TONAWANDA

S-28,815
NIAGARA FALLS

341,844

615,633

2,043

4,631

1,550

84,031

1,104,169

13,504,899

2,529,463

43,888,559

61,236,488

13,899,349

57,923,078

5,619,802

50,846,945

5,684,176

57,923,078

5,909,575

9,424,731

11,877,807

17,887,382

62,972,820

34,373,213

5,836,693

34,059,342

6,392,615

11,253,556

30,854,329

7,572,220

2,572,153

1,095,432

1,335,882

288,823

43,230

1,180,635

8,653,216

8,900

37,653

11,842,196

1,498,852

785,546

1,477,967

364,443

282,205

40,096

13,780,066

2,784,124

132,370

7,164

60,703,446

17,851,690

I O W A

I L L I N O I S

W I S C O N S I N

M I C H I G A N

I N D I A N A

O H I O

P E N N S Y L V A N I A

C A N A D A

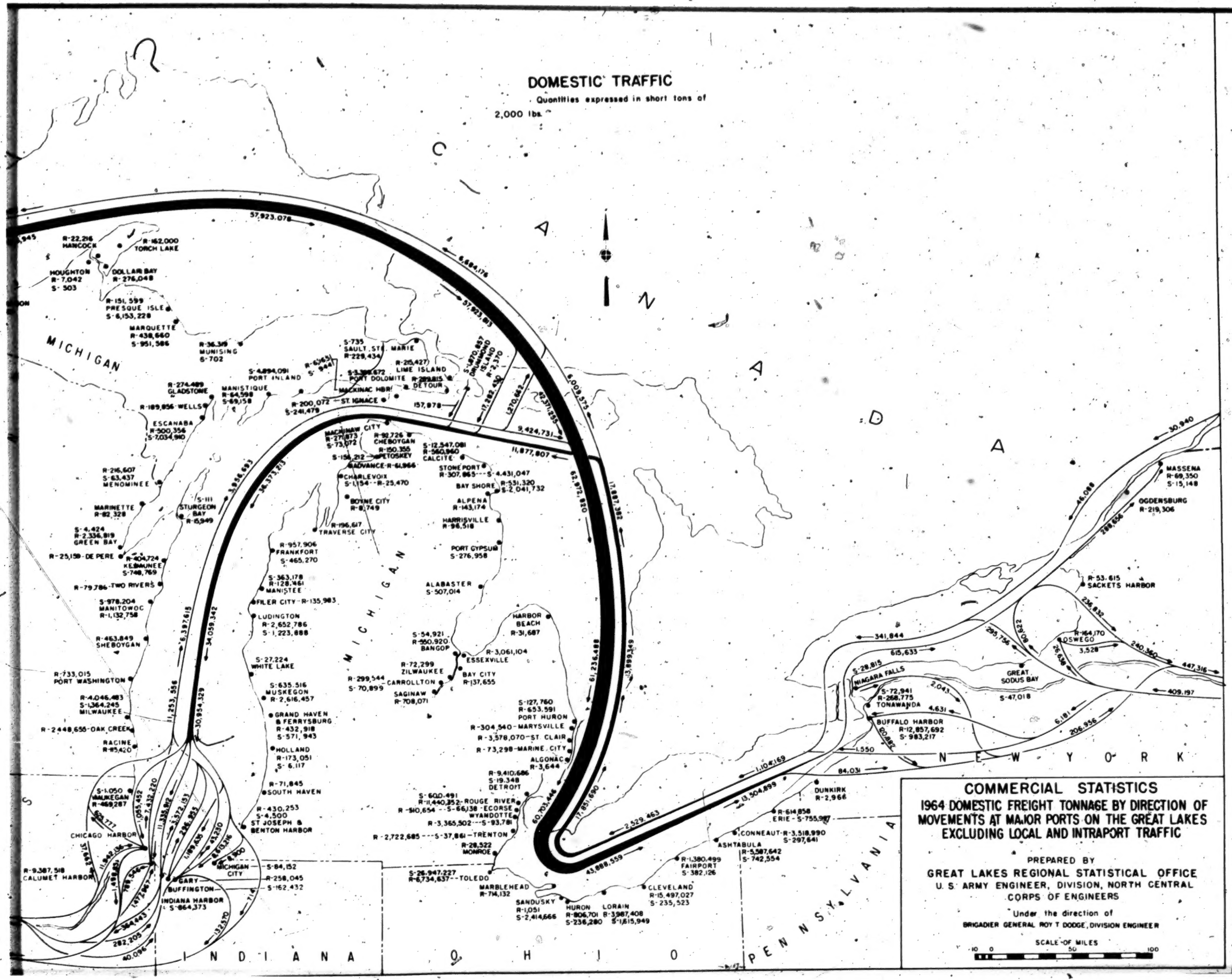
N

CO
1964 DOME
MOVEMENT
EXCLU

GREAT L
U. S. ARM

DOMESTIC TRAFFIC

Quantities expressed in short tons of 2,000 lbs.



COMMERCIAL STATISTICS

1964 DOMESTIC FREIGHT TONNAGE BY DIRECTION OF MOVEMENTS AT MAJOR PORTS ON THE GREAT LAKES EXCLUDING LOCAL AND INTRAPORT TRAFFIC

PREPARED BY

GREAT LAKES REGIONAL STATISTICAL OFFICE
U. S. ARMY ENGINEER, DIVISION, NORTH CENTRAL
CORPS OF ENGINEERS

Under the direction of
BRIGADIER GENERAL ROY T DODGE, DIVISION ENGINEER

SCALE OF MILES
10 0 50 100